

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

AGENCY

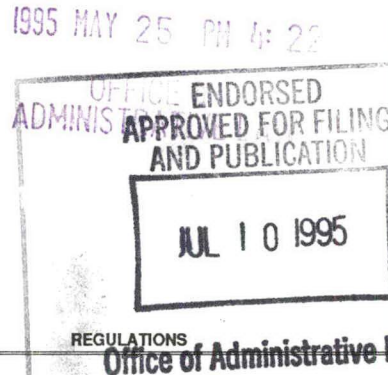
Department of Social Services

(See instructions on reverse)

ORIGINAL
For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER
	Z94-0524-03	95-0525-04s		

For use by Office of Administrative Law (OAL) only

FILED
In the office of the Secretary of State
of the State of California

JUL 10 1995

At 4:30 O'clock P.M.
R. J. JONES, Secretary of State

By Colverta Cornick

NOTICE

REGULATIONS
Office of Administrative Law

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94, #2226-3-94	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) 22	ADOPT See Attachment #1
SECTIONS AFFECTED	AMEND 101252
	REPEAL

2. TYPE OF FILING

- ☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

March 31, 1995 through April 17, 1995

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Frank Vitulli, Office of Regulations

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

5/22/95

TYPED NAME AND TITLE OF SIGNATORY

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Attachment #1

Adopt

101551
101552 101561, 101582
101615
101616.2
101616.3
101616.5
101616.8
101619
101620
101621
101626
101626.1
101626.2
101626.3
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101629.1
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101638.1
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101638.3
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101639.1
101639.2

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Amend Section 101252 to read:

101252 DEFINITIONS

101252

In addition to Section 101152, the following shall apply..

- a. (Continued)
- b. (Continued)
- c. (1) "Combination Center" means any combination of child day care center, infant center, school-age child day care center and day care center for mildly ill children, owned and operated by one licensee at a common address as specified in Section 101159. (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.74, 1596.75, 1596.76, 1596.81, and 1596.955, Health and Safety Code.

Adopt new Subchapter to read:

SUBCHAPTER 4. DAY CARE CENTER FOR MILDLY ILL CHILDREN

Article 1. General Requirements and Definitions

101551 GENERAL

101551

- (a) Day care centers providing care to mildly ill children shall be governed by the provisions specified in this subchapter. In addition, such facilities, except where specified otherwise, shall be governed by Chapter 1, Child Day Care General Licensing Requirements; Chapter 2, Day Care Centers; Subchapter 1, Day Care Centers, Basic Requirements; Subchapter 2, Infant Care Centers; and Subchapter 3, School-Age Child Day Care Centers.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73 and 1596.81, Health and Safety Code.

Adopt new Section 101552 to read:

101552 DAY CARE CENTER FOR MILDLY ILL CHILDREN - DEFINITIONS

101552

In addition to Sections 101152 and 101252, the following shall apply.

- (a) (Reserved)
- (b) (Reserved)
- (c) (Reserved)
- (d) (1) "Day Care Center for Mildly Ill Children" means any facility of any capacity, other than a family day care home as defined in Section 102352, in which less than 24-hour per-day nonmedical care and supervision is provided for mildly ill children in a group setting.
- (e) (Reserved)
- (f) ~~(1)~~ (Reserved)
- (g) (Reserved)
- (h) (1) "Health Professional" means a physician licensed by the State of California, or a person licensed by the State of California to perform medical procedures prescribed by a physician. This shall include, but not be limited to, physician's assistants, registered nurses and licensed vocational nurses.
- (i) (Reserved)
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "Level I Day Care Center for Mildly Ill Children" means a child day care center that provides care to mildly ill children and meets the following criteria:
 - (A) The program is a component of a licensed child day care center that serves well children and only accepts mildly ill children who normally attend the center's component(s) for well children.
 - (B) The "qualified staff person" is a director as specified in Sections 101615(a) and (b), or a teacher as specified in Section 101616.2(b).
 - (C) The center may accept children with conditions/symptoms/illnesses as specified in Section 101626.1(e) if a health clearance is obtained as specified in Section 101626.1(f).

(D) The center does not serve children with conditions/symptoms/illnesses as specified in Sections 101626.1(g) and (h) including, but not limited to:

1. Diarrhea due to confirmed shigella, salmonella or giardia.
2. Contagious stages of chicken pox, measles and mumps.

(2) "Level II Day Care Center for Mildly Ill Children" means a child day care center that provides care to mildly ill children and meets the following criteria:

(A) The program may be licensed as either of the following:

1. A free-standing facility that provides care only to mildly ill children.
2. A component of a licensed child day care center that serves well children and may accept children who do not normally attend the center's component(s) for well children.

(B) The "qualified staff person" is a licensed health professional.

(C) The center may accept children with conditions/symptoms/illnesses as specified in Section 101626.1(e) if a health clearance is obtained as specified in Section 101626.1(f).

(D) The center may not accept children with the following conditions/symptoms/illnesses except as specified:

1. Diarrhea due to confirmed shigella, salmonella or giardia except as specified in Section 101626.1(i).
2. Contagious stages of chicken pox or mumps except as specified in Section 101626.1(j).

(E) The center does not serve children with conditions/symptoms/illnesses as specified in Section 101626.1(h).

(m) (1) "Mildly Ill Child" means any child who is prohibited from participating in a day care center as defined in Section 101252 due to discomfort, injury or symptoms of illness.

(A) A mildly ill child shall include, but not be limited to:

1. A child who would otherwise be cared for and supervised by a parent or a person without a medical background.
2. A child who is recovering from an illness such as a cold or the flu, or who needs nonmedical postoperative convalescent care.

- (n) (Reserved)
- (o) (Reserved)
- (p) (Reserved)
- (q) (1) "Qualified Staff Person" in a Level I day care center for mildly ill children means a director as specified in Sections 101615(a) and (b), or a teacher as specified in Sections 101616.2(a) and (b).
- (2) "Qualified Staff Person" in a Level II day care center for mildly ill children means a licensed health professional.
- (r) (Reserved)
- (s) (Reserved)
- (t) (Reserved)
- (u) (Reserved)
- (v) (Reserved)
- (w) (Reserved)
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.74, 1596.75, 1596.750, 1596.76, and 1596.81, Health and Safety Code.

Adopt new Article Title and Section 101561 to read:

Article 2. Licensing

101561 DAY CARE CENTER FOR MILDLY ILL CHILDREN - LIMITATIONS ON CAPACITY AND AMBULATORY STATUS 101561

- (a) In addition to Section 101161, the following shall apply.
- (b) In a combination day care center with a Level I or Level II component for mildly ill children, facilities and rooms designated for, and used by, mildly ill children shall not be used by children or staff from any other day care center component except as specified in Section 101561(b)(1).
- (1) When mildly ill children are not being cared for in the Level I or Level II component, staff and children from another day care center component may use facilities and rooms designated for, and used by, the Level I or Level II component if a qualified staff person approves and sanitation procedures as specified in Section 101638.1 are followed as determined to be necessary by the qualified staff person.
- (c) To prevent the spread of illnesses in a combination center with a Level I or Level II component, mildly ill children who begin their day in the Level I or Level II component shall not transfer into any other day care center component for that day unless a qualified staff person approves and the criteria specified in Section 101626.1 are met.
- (1) When a child is moved from a Level I or Level II component to another day care center component, the licensee shall document the move in the child's record.
- (d) Staff who begin their day in the Level I or Level II component shall not transfer into any other day care center component for that day unless a qualified staff person approves and sanitation procedures as specified in Section 101638.1(d) are followed.
- (1) The licensee shall document in the staff file when staff members must follow sanitation procedures as specified in Section 101638.1(d) to prevent the spread of illnesses.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81(b), Health and Safety Code.

Adopt new Article Title and Section 101582 to read:

Article 3. Application Procedures

101582 DAY CARE CENTER FOR MILDLY ILL CHILDREN - ISSUANCE OF 101582
A LICENSE

- (a) In addition to Section 101182, the following shall apply.
- (b) Day care centers for mildly ill children shall be issued a separate license.
 - (1) This requirement shall apply even when a day care center for mildly ill children is a Level I or Level II component of a licensed combination day care center.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81, and 1596.95, Health and Safety Code.

Adopt new Article Titles 4, 5, and 6 and Section 101615 to read:

Article 4. Administrative Actions (Reserved)

Article 5. Enforcement Provisions (Reserved)

Article 6. Continuing Requirements

101615 DAY CARE CENTER FOR MILDLY ILL CHILDREN - DIRECTOR
QUALIFICATIONS AND DUTIES

101615

- (a) In addition to Sections 101215, 101216, 101315, 101415 and 101515, the following shall apply.
- (b) The director of a Level I or Level II day care center for mildly ill children shall, prior to employment, meet the requirements of Section 101615(b)(1) OR (2).
- (1) Complete three postsecondary semester or equivalent quarter units in the identification, transmission, control and care of common childhood illnesses and communicable diseases at an approved or accredited college or university; and, as specified in Section 1596.866 of the Health and Safety Code, complete at least 15 hours of training in preventive health practices including pediatric cardiopulmonary resuscitation and pediatric first aid.
- (A) Notwithstanding Section 1596.866(a) of the Health and Safety Code the director shall complete 15 hours of training in preventive health practices.

HANDBOOK BEGINS HERE

- (B) Health and Safety Code Section 1596.866 reads in pertinent part:
- (a) In addition to any other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care shall have at least 15 hours of training on preventive health practices. The training shall include pediatric cardiopulmonary resuscitation, pediatric first aid, recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries. The training may include training in sanitary food handling, child nutrition, emergency preparedness and evacuation, caring for children with special needs, and identification and reporting of signs and symptoms of child abuse...."

...(d) Completion of the training required pursuant to subdivisions (a) and (b) shall be demonstrated, upon request of the licensing agency, by the following:

(1) A current pediatric cardiopulmonary resuscitation card issued either by the American Red Cross or the American Heart Association, or by a training program that has been approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(2) A current pediatric first aid card issued either by the American Red Cross or by a training program that has been approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(3) A certificate of completion of a course or courses in preventive health practices as defined in subdivision (a) or certified copies of transcripts that identify the number of hours and the specific course or courses taken for training in preventive health practices as defined in subdivision (a).

(e) The training required under subdivision (a) shall not be provided by a home study course. This training may be provided through on-the-job training, workshops, or classes...."

HANDBOOK ENDS HERE

(2) Notwithstanding Sections 101315(h), (l) and (m), physicians, physician's assistants, registered nurses and licensed vocational nurses who wish to qualify as a director in a Level I or Level II day care center for mildly ill children shall possess a current and active appropriate license issued by the State of California licensing board; and shall:

(A) Complete at least six postsecondary semester or equivalent quarter units in early childhood education or child development at an approved or accredited college or university.

1. This requirement shall not apply provided a fully qualified teacher as specified in Sections 101616.2(a) and (c) is on the premises of the center at all times.

(B) Possess at a minimum one year of experience in pediatric health care obtained within the last five years.

(c) Verification of licensure required in Section 101615(b)(2) shall be included in an employee's personnel file and shall consist of the following:

(1) A photocopy of the license; and

(2) Documentation of written or verbal contact with the appropriate State of California licensing board to verify licensure status.

- (d) Original certified copies of transcripts verifying the completion of units required in Sections 101615(b)(1) and (2) shall be filed in an employee's personnel file.
- (e) In a combination day care center with a Level I or Level II component for mildly ill children, a separate director is not required for the Level I or Level II component.
 - (1) The director of the combination center shall designate a fully qualified teacher as specified in Sections 101616.2(a) and (c) for the Level I or Level II component.
 - (2) The director of the combination center shall maintain ultimate responsibility for the Level I or Level II component and shall provide guidance and supervision to the fully qualified teacher designated for the Level I or Level II component.
- (f) Notwithstanding Sections 101315(f) and (f)(1), the following shall apply:
 - (1) When the director of a day care center for mildly ill children is absent, a fully qualified teacher as specified in Sections 101616.2(a) and (c) shall act as a substitute for the director.
- (g) The director of a day care center for mildly ill children shall develop and implement a written training plan for the center's staff and volunteers.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101616.2 to read:

101616.2 DAY CARE CENTER FOR MILDLY ILL CHILDREN - TEACHER
QUALIFICATIONS AND DUTIES

101616.2

- (a) In addition to Sections 101216, 101316.2, 101416.2, and 101516.2, the following shall apply.
- (b) Notwithstanding Section 101316.2(b), prior to employment a teacher shall complete three postsecondary semester or equivalent quarter units in the identification, transmission, control and care of common childhood illnesses and communicable diseases; and shall complete three postsecondary semester or equivalent quarter units in early childhood education or child development. These units shall be completed at an approved or accredited college or university.
 - (1) After employment, a teacher hired under Section 101616.2(b) shall complete at least three units each semester or quarter until a total of 12 postsecondary semester or equivalent quarter units in early childhood education or child development is completed as specified in Section 101316.2(c).
- (c) To be a fully qualified teacher in a day care center for mildly ill children, a fully qualified teacher as specified in Section 101316.2(c) shall complete three postsecondary semester or equivalent quarter units in the identification, transmission, control and care of common childhood illnesses and communicable diseases at an approved or accredited college or university; and, as specified in Section 1596.866 of the Health and Safety Code, shall complete at least 15 hours of training in preventive health practices including pediatric cardiopulmonary resuscitation and pediatric first aid.
 - (1) Notwithstanding Section 1596.866(a) of the Health and Safety Code, each fully qualified teacher shall complete 15 hours of training in preventive health practices.
- (d) Original certified copies of transcripts verifying the completion of the required units shall be filed in each teacher's personnel file.
- (e) In a combination center with a Level I or Level II component for mildly ill children, a fully qualified teacher as specified in Sections 101616.2(a) and (c) shall work closely with the director in planning the daily activities of the Level I or Level II component.
 - (1) Under the guidance and supervision of the director, the fully qualified teacher as specified in Section 101616.2(e) shall be responsible for the overall operation of the Level I or Level II component.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72 and 1596.73, Health and Safety Code.

Adopt new Section 101616.3 to read:

101616.3 DAY CARE CENTER FOR MILDLY ILL CHILDREN - PERSONNEL REQUIREMENTS

101616.3

- (a) In addition to Section 101216, the following shall apply.
- (b) All staff and volunteers whose duties include the provision of care to, and the supervision and protection of, mildly ill children shall complete training on the practices and procedures of a day care center for mildly ill children.
 - (1) Training shall be completed within two weeks of a staff member's or volunteer's starting date.
- (c) The training plan shall ensure the provision of at least 20 hours of training for each staff member or volunteer and shall include, but not be limited to:
 - (1) Orientation to the center.
 - (2) Instruction on the identification, transmission and control of communicable diseases including universal health precautions.
 - (3) Center practices and procedures for the care of mildly ill children including those related to:
 - (A) Handwashing, feeding and diapering.
 - (B) Special care needs of mildly ill children including, as appropriate, the areas of nutrition and fluids, activities, taking temperatures and administering medications.
 - (C) Medical emergencies.
 - (D) Disaster preparedness and evacuation.
- (d) Training shall be given by the director and/or a fully qualified teacher.
- (e) Completion of training shall be documented in each participant's personnel file.
 - (1) Documentation shall include the name(s) of the trainer(s), the name(s) of staff members and volunteers receiving training, the date(s) training was completed, the subject area(s) of the training, and the duration of the training (number of hours).
- (f) At least one staff member who is trained in pediatric cardiopulmonary resuscitation and pediatric first aid pursuant to Health and Safety Code Section 1596.866 shall be onsite at all times when children are present.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101616.5 to read:

101616.5 DAY CARE CENTER FOR MILDLY ILL CHILDREN - TEACHER-CHILD RATIOS 101616.5

- (a) Notwithstanding Sections 101316.5, 101416.5 and 101516.5, the following shall apply.
- (b) There shall be a ratio of one teacher to every three infants in attendance.
 - (1) An aide as specified in Section 101316.3 may be substituted for a teacher when all of the following criteria are met:
 - (A) A fully qualified teacher as specified in Sections 101616.2(a) and (c) is directly caring for and supervising no more than three infants; and has overall responsibility for supervising a total of no more than 12 infants, with the assistance of three aides as specified in Section 101616.5(b)(1)(B).
 - (B) Each aide is responsible for the direct care and supervision of no more than three infants.
- (c) There shall be a ratio of one teacher to every six preschool-age children in attendance.
 - (1) An aide as specified in Section 101316.3 may be substituted for a teacher to care for preschool-age children when all of the following criteria are met:
 - (A) A fully qualified teacher as specified in Sections 101616.2(a) and (c) is directly caring for and supervising no more than six preschool-age children; and has overall responsibility for supervising a total of no more than 12 preschool-age children, with the assistance of one aide as specified in Section 101616.5(c)(1)(B).
 - (B) The aide is responsible for the direct care and supervision of no more than six preschool-age children.
- (d) There shall be a ratio of one teacher to every eight school-age children in attendance.
 - (1) An aide as specified in Section 101316.3 may be substituted for a teacher to care for school-age children when all of the following criteria are met:
 - (A) A fully qualified teacher as specified in Sections 101616.2(a) and (c) is directly caring for and supervising no more than eight school-age children; and has overall responsibility for supervising a total of no more than 16 school-age children, with the assistance of one aide as specified in Section 101616.5(d)(1)(B).

- (B) The aide is responsible for the direct care and supervision of no more than eight school-age children.
- (e) Staffing requirements for mixed-age groups of children shall be determined based on the age of the youngest child in the group.
- (f) The ratios specified in Sections 101616.5(b), (c), (d) and (e) shall also apply to napping infants, preschool-age children and school-age children, except as follows:
- (1) One teacher shall be permitted to supervise six napping infants without assistance provided that the remaining staff member(s) necessary to meet the overall ratio specified in Section 101616.5(b) is immediately available at the center.
 - (2) One teacher shall be permitted to supervise 12 napping preschool-age children without assistance provided that the remaining staff member(s) necessary to meet the overall ratio specified in Section 101616.5(c) is immediately available at the center.
 - (3) One teacher shall be permitted to supervise 16 napping school-age children without assistance provided that the remaining staff member(s) necessary to meet the overall ratio specified in Section 101616.5(d) is immediately available at the center.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73^{and}, 1596.81 ~~and 1597.05~~, Health and Safety Code.

OK

Adopt new Section 101616.8 to read:

101616.8 DAY CARE CENTER FOR MILDLY ILL CHILDREN - STAFFING FOR
WATER ACTIVITIES

101616.8

- (a) Notwithstanding Section 101316.8, the following shall apply.
- (b) Water activities in or near any of the following bodies of water shall not be permitted in a day care center for mildly ill children:
 - (1) Swimming pool.
 - (2) Any portable pool or wading pool, no matter how shallow.
 - (3) Potentially dangerous natural bodies of water including, but not limited to, oceans, lakes, rivers and streams.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101619 to read:

101619 DAY CARE CENTER FOR MILDLY ILL CHILDREN - ADMISSIONS
 POLICIES

101619

- (a) In addition to Section 101319, the following shall apply.
- (b) The written admission policies for day care centers for mildly ill children shall specify the conditions/symptoms/illnesses for which children will and will not be accepted for care.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101620 to read:

101620 DAY CARE CENTER FOR MILDLY ILL CHILDREN - MEDICAL ASSESSMENTS 101620

- (a) Notwithstanding Sections 101220 and 101320, the following shall apply.
- (b) A written medical assessment shall be obtained from the child's parent if a qualified staff person determines that one is necessary based on the nature of the child's symptoms and/or illness.
 - (1) The medical assessment shall be performed by a physician or other health professional working under the supervision of a physician.
 - (2) The medical assessment shall include:
 - (A) Verification that the child's symptoms or illness does not pose a risk to the child or others at the facility.
 - (B) Verification of the child's recent negative test for tuberculosis unless the child is concurrently enrolled in a licensed child day care center or, a public or private school.
 - (C) Identification of the child's special requirements.
 - (D) Identification of prescription and nonprescription medications that the child must take while at the center.
 - (E) Ambulatory status and restrictions on activities.
 - (3) Medical assessments shall be filed in the child's record.
 - (4) When a medical assessment is not required, the licensee shall make a dated notation to that effect in the child's record.
- (c) The licensing agency shall have the authority to require the licensee to obtain a current written medical assessment for any child, if such an assessment is necessary to verify the appropriateness of the child's placement.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101621 to read:

101621 DAY CARE CENTER FOR MILDLY ILL CHILDREN - CHILD'S RECORD 101621

(a) In addition to Section 101321, the following shall apply.

(b) Each child's record shall include:

- (1) A copy of the written medical assessment, when one has been required, as specified in Section 101620.
 - (A) If a medical assessment has not been required, a dated notation to that effect shall be made in the child's record.
- (2) A copy of information regarding instances of parental notification as specified in Sections 101626(b) and (b)(1).
- (3) A copy of information regarding prescription and nonprescription medications that the child must take while at the center as specified in Section 101326(e).
- (4) A copy of the child's plan of care as specified in Section 101626(c).
- (5) A copy of the daily inspection form completed by the qualified staff person performing the daily inspection for illness as specified in Section 101626.1(b).
- (6) Health clearances, when required, as specified in Section 101626.1(f).
- (7) Observations of the child as specified in Section 101626.3(b).
- (8) Information regarding any allergies the child may have.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101626 to read:

101626 DAY CARE CENTERS FOR MILDLY ILL CHILDREN - HEALTH RELATED 101626
SERVICES

- (a) In addition to Section 101326, and notwithstanding Section 101326(a), the following shall apply.
- (b) If the child's illness or injury worsens to the point that it exceeds the maximum level of care specified in the admission policies and for which the center is licensed, the licensee shall immediately notify the child's parent and require the child's parent to remove the child from the center.
 - (1) Notification of the parent shall be recorded in the child's record and shall include the date and time of notification and the name of the qualified staff person making the notification.
- (c) A written plan of care shall be developed for each child and shall be updated daily.
 - (1) This plan shall be completed with the assistance of the child's parent; shall be signed and dated by the child's parent; and shall be maintained in the child's record.
 - (2) Each plan of care shall include, but not be limited to:
 - (A) Type and frequency of observations of the child.
 - (B) Activity level.
 - (C) Dietary restrictions.
 - (D) Prescription and nonprescription medications that the child must take while at the center.
 - (E) Special procedures associated with the child's illness/injury, such as any relating to intake of food and liquid, stool and urine output, or temperature. This requirement may be omitted when the nature of the child's illness/injury warrants doing so.
 - (F) Developmental activities.
- (d) Every center shall have provisions for continuing health consultation from a physician or registered nurse with a current and active license issued by the appropriate State of California licensing board. This health professional shall have pediatric experience/training obtained within the last five years.
 - (1) Health consultation may be provided by a staff member who is also a health professional as specified in Section 101626(d), as part of his/her staff duties; or by an outside consultant as specified in Section 101626(d).

- (2) Health consultation shall include developing written plans and procedures and, if necessary, forms for the following, all of which shall be maintained at the center:
- (A) Admissions criteria, center operating policies and procedures, daily inspection procedures, procedures for the surveillance of communicable diseases, and plans for the care of individual children.
 - (B) Liaison with local health departments.
 - (C) Recordkeeping and reporting of accidents and illnesses involving staff and children.
 - (D) Obtaining emergency health care, including provisions for listing emergency telephone numbers.
 - (E) Administration, handling and storage of medications.
 - (F) Emergency first-aid procedures and assurance of the availability of staff trained in such procedures.
 - (G) Establishment of an isolation area and development of related procedures.
 - (H) Provision of continuing health-care services to children in attendance who do not already have access to such services, which may include making referrals to community resources.
 - (I) Provision of staff training as specified in Section 101616.2.
- (3) If health consultation is provided by an outside consultant, a written contract or letter of agreement between the consultant and the center shall be prepared. This documentation shall be maintained in the center's files.
- (4) Each center shall maintain in its files each health consultant's name, address, telephone number, area of specialization and evidence of qualifications.
- (A) Evidence of qualifications shall include, but not be limited to, verification of licensure required in Section 101626(d) as demonstrated by the following:
 - 1. A photocopy of the license; and
 - 2. Documentation of written or verbal contact with the appropriate State of California licensing board to verify licensure status.
- (5) Health consultation shall occur quarterly or more often, if necessary, and not less than semiannually.

- (A) After each consultation, the consultant shall prepare a written report of his/her findings and recommendations. These reports shall be maintained in the center's files.
 - (B) If consultation is not necessary during a quarter, a notation explaining why shall be made in the center's files.
- (e) The licensee shall maintain the most current edition of a manual on the identification and control of communicable diseases.
 - (1) This manual shall be either the American Academy of Pediatrics' Report of the Committee on Infectious Diseases (Red Book) or another manual approved by the health consultant prior to use.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101626.1 to read:

101626.1 DAY CARE CENTER FOR MILDLY ILL CHILDREN - DAILY INSPECTION FOR ILLNESS 101626.1

- (a) Notwithstanding Section 101326.1, the following shall apply.
- (b) Upon arrival each day at the center, each child shall have a daily inspection for illness to determine if the child is appropriate for placement in the center.
 - (1) A qualified staff person shall perform and document the completion of the daily inspection for illness.
 - (A) A qualified staff person for a Level I center shall be a director as specified in Sections 101615(a) and (b), or a teacher as specified in Sections 101616.2(a) and (b).
 - (B) A qualified staff person for a Level II center shall be a licensed health professional.
 - (2) As part of the daily inspection for illness, a child's body temperature shall be determined by using a thermometer with a disposable plastic (Probe) cover.
 - (3) The licensee shall require the parent to remain in the center until the daily inspection for illness is completed and the child is accepted for care.
- (c) The licensee shall develop and implement a written procedure for completing daily inspections for illness, which shall include developing a form to document that a daily inspection for illness has been completed prior to a child's acceptance for care.
 - (1) As required by Section 101626(d), the health consultant shall be consulted on the development of the procedure and form specified in Section 101626.1(c).
- (d) This subchapter shall not be interpreted to require the exclusion of a child with a chronic condition protected under the Americans With Disabilities Act of 1990 (42 U.S. Code Section 12101 et seq.) unless the child also has a condition/symptom/illness as specified in Sections 101626.1(e), (g) and (h) that would independently exclude the child from care in a center.
- (e) Except as specified in Section 101626.1(f), the licensee shall not accept or retain for care any child with any of the following conditions/symptoms/illnesses or combination thereof:
 - (1) Body temperature of 102 F (38.9 C) (oral) or 103 F (39.4 C) (rectal or by ear) or 101 F (38.3 C) (axillary), or higher.
 - (A) For an infant two months of age or under, body temperature of 101.5 F (38.6 C) (rectal or by ear) or higher.

- (2) Rapid or labored breathing.
 - (3) Body temperature of 101 F (38.3 C) (oral) or 102 F (38.9 C) (rectal or by ear) or 100 F (37.8 C) (axillary), or higher, with stiff neck, lethargy, irritability or persistent crying.
 - (4) Asthmatic with upper respiratory infection and coughing that are interfering with the child's ability to drink, talk or sleep.
 - (5) Undiagnosed acute rash of two weeks or less in duration.
 - (6) Yellowing of the eyes or skin.
 - (7) Abdominal pain that is persistent or intermittent.
 - (8) Vomiting three or more times, or lasting over a six-hour period, or with signs of dehydration.
 - (9) Diarrhea (that is, five or more stools in an eight-hour period or an increased number of stools compared to the child's normal pattern, and with increased stool water and/or decreased form), in addition to one or more of the following:
 - (A) Signs of dehydration (for example, no urine produced for an eight-hour period).
 - (B) Blood or mucus in the stool, unless a physician determines that at least one stool culture demonstrates absence of shigella, salmonella, campylobacter, pathogenic E. coli or other pathogens.
 - (C) Persistence beyond three days.
 - (10) Severe lethargy
 - (11) Open lesions of the skin or mucous membranes.
 - (12) Other conditions as may be determined by a qualified staff person on an individual basis.
- (f) A Level I or Level II center may accept a child with any of the conditions/symptoms/illnesses as specified in Section 101626.1(e) if the licensee has obtained a written health clearance stating that the child has been diagnosed and reexamined; and is not contagious or a health risk to the child or other children in care.
- (1) The written health clearance, which shall be kept in the child's record, shall be obtained from a physician or other health professional working under the supervision of a physician.
 - (2) A licensee may accept a child for care under Section 101626.1(f) upon the verbal approval of a physician or other health professional working under the supervision of a physician, if the required written health clearance is obtained within 24 hours.

- (A) Receipt of verbal approval as specified in Section 101626.1(f)(2) shall be recorded immediately in the child's record. The notation shall include the name of the physician or other health professional who gave the verbal approval, the date and time the verbal approval was given, and the name of the qualified staff person who made the notation.
- (g) The licensee shall not accept or retain for care any child with any of the following conditions/symptoms/illnesses except as specified:
 - (1) Diarrhea due to confirmed shigella, salmonella or giardia except as specified in Section 101626.1(i).
 - (2) Contagious stages of chicken pox or mumps except as specified in Section 101626.1(j).
- (h) The licensee shall not, under any circumstances, accept or retain for care any child with any of the following conditions/symptoms/illnesses:
 - (1) Diarrhea due to campylobacter or cryptosporidium.
 - (2) Contagious stages of measles, rubella, pertussis, diphtheria or tuberculosis.
 - (3) Untreated infestation (such as head lice, scabies).
- (i) A Level II center may accept a child with diarrhea due to confirmed shigella, salmonella or giardia, 24 hours after treatment has been initiated, if prior approval is obtained from the licensing agency and the following conditions are met:
 - (1) In addition to Section 101626.1(b), prior to accepting the child the licensee shall obtain documentation from a physician or other health professional working under the supervision of a physician stating that, based on his/her knowledge of the isolation and separation procedures specified below, the child has been diagnosed and poses no serious health risk to the child or other children in care. This documentation shall be kept in the child's record.
 - (A) Verbal approval, with written follow-up, shall be acceptable if the procedures specified in Section 101626.1(f)(2) are followed.
 - (2) The licensee shall provide care for children with each illness in a specific area of a room or a room physically separated from those used by children with other illnesses.
 - (A) In addition to separate rooms, physical separation shall include, but not be limited to, movable partitions and accordion wall dividers.
 - (3) Each separate area/room shall include:
 - (A) Separate toilet and handwashing facilities.

- (B) Separate equipment and toys.
- (C) Notwithstanding Section 101561(d), staff assigned exclusively to the care of children in each area/room.
- (4) Sanitation procedures as specified in Section 101638.1 shall be followed.
 - (A) The licensee shall document, in the staff file, when staff must follow sanitation procedures as specified in Section 101638.1(d) to prevent the spread of illnesses.
- (j) A Level II center may accept a child in the contagious stages of chicken pox or mumps, if prior approval is obtained from the licensing agency and the following conditions are met:
 - (1) In addition to Section 101626.1(b), prior to accepting the child the licensee shall obtain documentation from a physician or other health professional working under the supervision of a physician stating that, based on his/her knowledge of the isolation and separation procedures specified below, the child has been diagnosed and poses no serious health risk to the child or other children in care. This documentation shall be kept in the child's record.
 - (A) Verbal approval, with written follow-up, shall be acceptable if the procedures specified in Section 101626.1(f)(2) are followed.
 - (2) The child shall be isolated from children with other illnesses and cared for in a separate room with children having the same illness.
 - (A) Children with chicken pox and mumps shall not be cared for simultaneously in the same isolation room.
 - (3) Each isolation room shall include:
 - (A) A separate door to the outside of the facility.
 - (B) Floor-to-ceiling walls.
 - (C) A separate ventilation system, preferably a positive airflow system.
 - (D) Separate toilet and handwashing facilities.
 - (E) Separate equipment and toys.
 - (F) Notwithstanding Section 101561(d), staff assigned exclusively to the care of children in each isolation room.

(4) Sanitation procedures as specified in Section 101638.1 shall be followed.

(A) The licensee shall document, in the staff file, when staff must follow sanitation procedures as specified in Section 101638.1(d) to prevent the spread of illnesses.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101626.2 to read:

101626.2 DAY CARE CENTER FOR MILDLY ILL CHILDREN - ISOLATION
FOR ILLNESS

101626.2

- (a) Notwithstanding Section 101326.2, the following shall apply.
- (b) A center shall be equipped with an isolation area to care for any child as specified in Section 101626.2(c).
 - (1) The isolation area shall be physically separate from the indoor activity area and shall be located to afford easy observation of, and access to, children requiring isolation.
 - (2) The isolation area shall be equipped with a bed, cot, floor mat or couch for each child requiring isolation; and with a crib, cot or floor mat for each infant requiring isolation.
 - (3) The isolation area shall not be located in the kitchen, food preparation or toilet areas.
 - (4) In combination centers with a Level I or Level II component for mildly ill children, only one isolation area that serves all of the day care center components is required.
- (c) A child shall be isolated when any one of the following occurs:
 - (1) The child's condition worsens enough to warrant notifying the child's parent as specified in Section 101626(b); or
 - (2) The child is determined to have any one of, or combination of, the conditions/symptoms/illnesses as specified in Section 101626.1(e); or
 - (3) The child is determined to possibly have one of the communicable diseases as specified in Sections 101626.1(g) and (h).
- (d) The center shall ensure the isolation of each child within the isolation area when more than one child is present in the isolation area.
- (e) Children in the isolation area shall be under the constant observation of a teacher who is present in the isolation area itself.
- (f) A child shall remain in the isolation area only until the child's parent can remove the child from the center as specified in Section 101626(b).

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101626.3 to read:

101626.3 DAY CARE CENTER FOR MILDLY ILL CHILDREN - OBSERVATION
OF THE CHILD

101626.3

- (a) In addition to Section 101326.3(a), and notwithstanding Section 101326.3(b), the following shall apply.
- (b) Any changes in the child's behavior or any signs of the child's illness worsening shall be reported to the child's parent and recorded in the child's record on the day they occur.
- (c) If indicated by the nature of the child's illness at any time when the child is in care, staff shall record daily observations of the child's behavior and symptoms including the date and time of the observation(s). The record of the observation(s) shall also include, but not be limited to, the following as appropriate:
 - (1) Behavior and activities, such as the child's state of alertness, type of complaints, frequency and length of sleep, and pattern of rest and play.
 - (2) Temperature.
 - (A) Any child with a body temperature of 100 F (37.8 C) (oral) or 101 F (38.3 C) (rectal or by ear) or 99 F (37.2 C) (axillary), or higher, shall have his/her body temperature taken during the day as follows:
 - 1. For a child 0-1 years of age, within one hour of the original temperature; for a child 0-5 years of age, within two hours of the original temperature; and for a child 6-18 years of age, within three hours of the original temperature.
 - 2. The child's temperature shall also be taken at intervals thereafter depending on the child's observed behavior and symptoms as specified in Section 101626.3(c).
 - (B) Body temperature shall be determined by using a thermometer with a disposable plastic (Probe) cover.
 - (3) Breathing.
 - (4) Vomiting.
 - (5) Amount of food and fluid intake.
 - (6) Color, consistency and number of bowel movements.

(7) Frequency of urination.

(A) Notations shall be made at least every four hours if the child has any of the following conditions/symptoms/illnesses:

1. Decreased appetite.

2 Vomiting.

3 Diarrhea as specified in Section 101626.1(e)(9).

(d) Recorded observations shall be in accordance with the center's admission policies and agreements; and in accordance with the plans and procedures as specified in Section 101626 including the plan of care as specified in Section 101626(c).

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101627 to read:

101627 DAY CARE CENTER FOR MILDLY ILL CHILDREN - FOOD SERVICE 101627

- (a) In addition to Sections 101227, 101327 and 101427, the following shall apply.
- (b) For mildly ill children, individual meals and snacks shall be prepared in accordance with the requirements of each child's admission agreement and plan of care.
- (c) For mildly ill infants, individual meals and snacks shall be prepared in accordance with the requirements of each infant's admission agreement, feeding plan and plan of care.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101628 to read:

101628 DAY CARE CENTER FOR MILDLY ILL CHILDREN - PERSONAL SERVICES 101628

- (a) In addition to Section 101428, the following shall apply.
- (b) Only disposable diapers shall be used unless cloth diapers are specified in the infant's or child's plan of care.
- (c) If cloth diapers are used, they shall be used with an outer waterproof cover.
 - (1) When cloth diapers are changed, the soiled diaper and outer cover shall be removed at the same time and replaced with a clean diaper and outer cover.
- (d) Notwithstanding Section 101428(d) (5), soiled or wet clothing or cloth diapers shall not be rinsed in a sink.
 - (1) Soiled or wet clothing or cloth diapers provided by the parents shall be handled as specified in Section 101428(c).
 - (2) Soiled cloth diapers provided by the facility shall be laundered and sanitized daily. If a diaper service is utilized, the diapers shall be placed in the diaper service company container, as instructed, for pickup by the diaper service.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101629.1 to read:

101629.1 DAY CARE CENTER FOR MILDLY ILL CHILDREN - SIGN-IN AND SIGN-OUT 101629.1

- (a) Notwithstanding Section 101326.1(b)(2)(A), and in addition to Section 101329.1, the following shall apply.
- (b) The licensee shall require that each child be signed in and out by his/her parent or responsible person.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101630 to read:

101630 DAY CARE CENTER FOR MILDLY ILL CHILDREN - ACTIVITIES

101630

- (a) Notwithstanding Section 101330, the following shall apply.
- (b) The licensee shall develop, maintain and implement a written plan to ensure the provision of indoor and outdoor activities designed to meet the needs of mildly ill children. Such activities shall include, but not be limited to:
 - (1) Quiet and active play.
 - (2) Rest and relaxation.
 - (3) Eating.
 - (4) Toileting.
 - (5) Individual attention.
 - (6) Infants being held by care providers.
- (c) The licensee shall ensure the participation of mildly ill children in the activities specified in Section 101630(b) as appropriate.
- (d) Each child, unless it is not appropriate because of the nature of his/her illness, shall be given the opportunity to nap/sleep whenever he/she wishes without being disturbed by other activities at the center.
 - (1) No child shall be forced to sleep, to stay awake or to stay in the napping area.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Article Title and Section 101638.1 to read:

Article 7. Physical Environment

101638.1 DAY CARE CENTER FOR MILDLY ILL CHILDREN - GENERAL SANITATION 101638.1

- (a) Notwithstanding Section 101438.1, the following shall apply.
- (b) Children shall not have access to items used by pets and animals.
- (c) Staff and children shall wash their hands at appropriate times including, but not limited to:
 - (1) Before and after eating or handling food.
 - (2) After toileting or changing diapers.
 - (3) Whenever hands are contaminated with bodily fluids.
- (d) The following handwashing procedures shall be used:
 - (1) Use soap and running water.
 - (A) Only dispenser soap, such as liquid or powder in an appropriate dispenser, shall be used.
 - (2) Rub hands together vigorously, washing all surfaces including wrists, backs of hands, between fingers and under fingernails.
 - (3) Rinse hands well.
 - (4) Dry hands with disposable paper towels.
 - (A) Only disposable paper towels in an appropriate holder or dispenser shall be used.
 - (5) When a water faucet can be turned off only by using hand controls, the faucet shall be turned off using a disposable paper towel instead of with bare hands only.
 - (6) The procedures specified in Sections 101638.1(d)(1) through (5) shall be posted at sinks used by staff.
- (e) Washing, cleaning and sanitizing requirements for areas used by staff and children, or for areas that children have access to, shall include:
 - (1) Floors, except those carpeted, shall be vacuumed or swept and mopped with a disinfecting solution at least daily or more often if necessary.

- (2) Carpeted floors and large throw rugs that cannot be washed shall be vacuumed at least daily and shall be cleaned at least every six months or more often if necessary.
- (A) Small rugs that can be washed shall be shaken or vacuumed at least daily and shall be washed at least weekly or more often if necessary.
- (3) Walls and portable partitions shall be washed and disinfected at least monthly or more often if necessary.
- (4) When infants are in care, the diaper-changing area where residue is splashed shall be washed and disinfected after each diaper change. The immediate floor and wall areas shall also be kept clean.
- (5) Sinks used to wash infants shall be washed and disinfected after each use.
- (6) Sinks used for food preparation shall not be used to wash infants or to wash fecally contaminated hands.
- (f) Objects used by children shall be washed and disinfected at least daily or more often if necessary. This shall include, but not be limited to, toys and blankets.
- (g) Linens laundered by the facility shall be washed and sanitized at least daily or more often if necessary. This shall include, but not be limited to, bedding, towels and washcloths used on or by children.
- (1) Linens or clothing used on or by any child shall not be used on or by any other child without first being laundered and sanitized.
- (h) Disinfecting solutions, which shall be used after surfaces and objects have been cleaned with a detergent or other cleaner, shall be freshly prepared each day using 1/4 cup of bleach per gallon of water. Commercial disinfecting solutions, including one-step cleaning/disinfecting solutions, shall be permitted and shall be used in accordance with label directions.
- (i) All disinfectants, cleaning solutions, poisons and other hazardous materials shall be stored as specified in Section 101238.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101638.2 to read:

101638.2 DAY CARE CENTER FOR MILDLY ILL CHILDREN - OUTDOOR ACTIVITY SPACE 101638.2

- (a) Notwithstanding Sections 101338.2(a), (e) and (f), the following shall apply.
- (b) There shall be at least 20 square feet of outdoor activity space per child based on the total licensed capacity.
- (c) In combination centers with a Level I or Level II component for mildly ill children, outdoor activity space for mildly ill children shall be physically separate from outdoor activity space for well children.
 - (1) Physical separation shall include, but not be limited to:
 - (A) Fencing; or
 - (B) Supervision; or
 - (C) Scheduling.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101638.3 to read:

101638.3 DAY CARE CENTER FOR MILDLY ILL CHILDREN - INDOOR ACTIVITY SPACE

101638.3

- (a) In addition to Section 101338.3, the following shall apply.
- (b) In combination centers with a Level I or Level II component for mildly ill children, indoor activity space for the Level I or Level II component shall be physically separate from indoor activity space for any other day care center component.
 - (1) Physical separation shall include, but not be limited to:
 - (A) Movable partitions.
 - (B) Accordion wall dividers.
 - (C) Separate rooms.
- (c) In the designated napping area, there shall be at least 15 square feet of indoor space for each child's bed, cot, floor mat or couch; and for each infant's crib, cot or floor mat.
 - (1) The square-footage requirement in Section 101638.3(c) shall be in addition to the requirement of 35 square feet of indoor activity space per child as specified in Section 101338.3.
 - (2) Napping equipment, unless separated by screens, shall be placed at least three feet apart when in use.
 - (3) The designated napping area shall be separate from the indoor activity area.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101639 to read:

101639 DAY CARE CENTER FOR MILDLY ILL CHILDREN - FIXTURES,
FURNITURE, EQUIPMENT AND SUPPLIES

101639

- (a) In addition to Sections 101339, 101439 and 101539, the following shall apply.
- (b) In combination centers with a Level I or Level II component for mildly ill children, all fixtures, furniture, equipment and supplies designated for use in caring for mildly ill children, or for use by mildly ill children, shall not be shared with or used by any other day care center component unless the criteria specified in Section 101561(b)(1) are met.
- (c) Beds, cots, floor mats or couches, as well as blankets and pillows, shall be available and accessible for use by mildly ill children whenever mildly ill children are present.
- (d) Cribs, cots or floor mats, as well as blankets, shall be available and accessible for use by mildly ill infants whenever mildly ill infants are present.
 - (1) Mildly ill infants shall not have access to pillows.
- (e) Notwithstanding Section 101339(b), the total licensed capacity of a center shall not exceed 10 mildly ill children for every toilet and every handwashing sink.
 - (1) Toilet and handwashing facilities used by mildly ill children shall not be shared with or used by any other day care center component, unless the criteria specified in Section 101561(b)(1) are met.
 - (2) Toilets used by mildly ill school-age children shall provide for individual privacy.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.806, and 1596.81, Health and Safety Code.

Adopt new Section 101639.1 to read:

101639.1 DAY CARE CENTER FOR MILDLY ILL CHILDREN - NAPPING EQUIPMENT 101639.1

- (a) In addition to Sections 101339.1 and 101439.1, the following shall apply.
- (b) In combination centers with a Level I or Level II component for mildly ill children, napping equipment designated for use in caring for mildly ill children, or for use by mildly ill children, shall not be shared with or used by any other day care center component unless the criteria specified in Section 101561(b)(1) are met.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

Adopt new Section 101639.2 to read:

101639.2 DAY CARE CENTER FOR MILDLY ILL CHILDREN - DRINKING WATER

101639.2

- (a) Notwithstanding Section 101339.2, the following shall apply.
- (b) Each child shall use a cup or bottle labeled with his/her name, or a single-use disposable cup.
- (c) Drinking water from a noncontaminating fixture or container shall be readily available to children both indoors and outdoors.
- (d) Each child shall be free to drink water as he/she wishes unless it is not appropriate because of the nature of the child's illness.

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, and 1596.81, Health and Safety Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

0993-36

OAL FILE
NUMBERS

NOTICE FILE NUMBER

Z-93-1123-05

REGULATORY ACTION NUMBER

95-0531-04C

EMERGENCY NUMBER

95-0131-01E

PREVIOUS REGULATORY ACTION NUMBER

94-1215-02C

For use by Office of Administrative Law (OAL) only

NOTICE

REGULATIONS

1995 MAY 31 PM 4:54

ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
AND PUBLICATION

JUL 13 1995

FILED

In the office of the Secretary of State
of the State of California

JUL 13 1995

At 3:05 O'clock P.M.

Bill Jones, Secretary of State

By Robert L. Conick
Deputy Secretary

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
Supplemental Child Care (SCC) Program							
3. NOTICE TYPE		4. AGENCY CONTACT PERSON				TELEPHONE NUMBER	
<input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action							
OAL USE ONLY		ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER		PUBLICATION DATE	
<input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn				95-1149-2		12-3-93	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S)	ADOPT
MPP	40-021 and 44-500 through 44-509, consecutively.
SECTIONS AFFECTED	AMEND
	40-131.3, 40-181.1, and 40-111.3.
	REPEAL

2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

- ☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

May 9, 1995 through May 24, 1995 (See attached.)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

- ☐ Other (Specify)

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

MAY 31 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

3. May 9, 1995 to May 24, 1995 15-Day Renotice

Sections Amended

40-131.3u.
40-181.1(l)
44-502(e) (1), (r) (2), and (s)
44-503.11; .122; .134; .135; and .14
44-504.1 et seq., .2, .23, .3, and .4
44-506.1 et seq.
44-507.14 and .22
44-508.13 and .421

November 2, 1994 to November 17, 1994 15-Day Renotice

See OAL File No. 94-1215-02C

June 16, 1994 to July 1, 1994 15-Day Renotice

See OAL File No. 94-0706-02C

Amend Section 40-021.3 to read:

40-021 IMPLEMENTATION OF SUPPLEMENTAL CHILD CARE PROGRAM

40-021

- .1 The adoption of Chapter 44-500 and the amendment of Sections 40-131.3, 40-181.1, and 44-111.3 which implement the Supplemental Child Care (SCC) Program shall be effective November 4, 1993. Counties are required to meet the SCC informing requirements at application and redetermination beginning November 4, 1993.

HANDBOOK BEGINS HERE

- .2 Chapter 44-500 is being adopted to implement the Supplemental Child Care (SCC) Program to comply with the provisions of Welfare and Institutions Code Section 11451.7 (Chapter 69, Statutes of 1993).
- .3 Section 40-131 is being amended to require all AFDC applicants be informed about the SCC Program at the time of AFDC application.
- .4 Section 40-181 is being amended to require that AFDC recipients are informed about their eligibility for SCC when they become employed.
- .5 Section 44-111 is being amended to exempt SCC payments from consideration of income for AFDC.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code.

Amend Section 40-131.3u. to read:

40-131 INTERVIEW REQUIREMENT (Continued)

40-131

.3 Content of Application Interview (Continued)

- u. The availability of supplemental child care payments for working recipients who have child care costs as specified in Section 44-507.111 and provide the Monthly Child Care Eligibility Report (SCC 6) necessary to request the supplemental child care payments as specified in Section 44-507.11.

Authority Cited: Sections 10553, 10554, 10604, and 18904, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11324.8(a), AB 312, Chapter 1568, Statutes of 1990, 11451.7, 11500(b), and 11511(a), Welfare and Institutions Code; 7 USC 2020(i), 7 CFR 273.2(j), 42 USC 616(f), 682(c)(2), (3) and (4), 45 CFR 250.20, 45 CFR 250.40(a) and (b); 45 CFR 255.1; 45 CFR 256.1(b).

Amend Section 40-181.1(1) to read:

40-181 CONTINUING ACTIVITIES AND DETERMINATION OF ELIGIBILITY (Continued) 40-181

.1 General County Responsibility (Continued)

- (1) The county shall inform recipients of the availability of supplemental child care payments to all assistance units which have reported earned income as specified in Section 44-507.113 and provide the Monthly Child Care Eligibility Report (SCC 6) necessary to request supplemental child care payments as specified in Section 44-507.11. (Continued)

Authority Cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 42 U.S.C. 616(b) and (f); 45 CFR 233.28 and 235.112(b); 7 CFR 273.16(b); and Sections 10553, 10554, 10604, 11451.7 and 11486, Welfare and Institutions Code.

Amend Section 44-111.3 to read:

44-111 PAYMENTS EXCLUDED OR EXEMPT FROM CONSIDERATION AS INCOME
(Continued)

44-111

.3 Exemption of Payments from Public Sources (Continued)

- g. Reimbursements for child care costs made under the Supplemental Child Care (SCC) Program are exempt from consideration as income.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11008.15, 11255, and 11451.7, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; 45 CFR 244.0(c); 45 CFR 233.20(a)(4)(ii); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); and Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992.

Adopt Chapter 44-500 and Section 44-501 to read:

44-500 SUPPLEMENTAL CHILD CARE (SCC) PROGRAM

44-501 INTRODUCTION TO SUPPLEMENTAL CHILD CARE

44-501

HANDBOOK BEGINS HERE

The Supplemental Child Care (SCC) Program is mandated by Welfare and Institutions Code Section 11451.7 (Chapter 69, Statutes of 1993). It provides funding for child care to working AFDC recipients when certain eligibility criteria are met. The objective of SCC is to remove one of the most formidable barriers to employment for AFDC families with young children which is the high cost of child care. In assisting these families with their child care costs, it is hoped that they will obtain and maintain employment which will ultimately result in self-sufficiency from the welfare system.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code.

Amend Sections 44-502(e) (1), (r) (2), and (s) to read:

44-502 DEFINITIONS

44-502

The following definitions pertain only to Chapter 44-500. The definitions shall be used in conjunction with the balance of the Supplemental Child Care Program regulations and do not stand alone.

- (a) (1) "AU" means the AFDC assistance unit.
- (b) (1) "Budget Month" means the month used to determine the amount of the SCC payment.
- (c) (1) "Child Care Disregard" means the limited dependent care earned income disregard amount used to reduce the net countable income in the AFDC grant computation as specified in Section 44-113.217.
- (d) (1) "Date of Receipt" means the date that a document is received by the county welfare department, either through the mail or delivered in person.
- (e) (1) "Exempt from Licensing" means a child care provider who is not required to obtain a child day care license ~~as defined by Title 22/ Division 12/ Section 101138.~~

HANDBOOK BEGINS HERE

(A) Examples of when a child day care license is not required.

- 1. The ~~nonrelative~~ child's family day care home provider cares for the children of only one family in addition to ~~his/her~~ the operator's own children/ ~~either in the home of the child or provider~~ as defined in Health and Safety Code Section 1596.792, and the care is provided in the provider's own home as specified in Health and Safety Code Section 1596.78; or
- 2. The child care provider cares only for children to whom the provider is related; or
- 3. The child care provider is a public or private school or a recreation program as defined in Health and Safety Code Section 1596.792 or .793.

HANDBOOK ENDS HERE

- (f) (1) "Full-time Care" means child care provided by a child care provider for more than 147 hours per calendar month.
- (g) through (o) Reserved
- (p) (1) "Payment Month" means the month following the report month and the month in which the recipient receives the SCC payment.

- (2) "Part-time Care" means child care provided by a child care provider for 147 hours or less per calendar month.

(q) Reserved

- (r) (1) "Rate Ceiling" means the 75th percentile of the regional market rate or the 100th percentile of the regional market rate when the region has no more than two providers giving that age and category of care.

- (2) "Regional Market Rate" means the costs of child care in each county differentiated by age of child, a child with special needs of the child, type of care, and whether the care is provided full- or part-time as established in the Regional Market Rate Ceilings for California Child Care Providers.

- (3) "Report Month" means the month in which a recipient is required to submit the monthly report (CA 7/SAWS 7, Rev. 1/93) and the Monthly Child Care Eligibility Report (SCC 6) which contain information from the previous month, also known as the budget month.

- (s) (1) "SCC" means the Supplemental Child Care Program.

- (2) "SCC 6" means the Monthly Child Eligibility Report (Rev. 03/95) which is used to gather information monthly to determine eligibility for receipt of child care assistance in the Supplemental Child Care (SCC) Program or the California Alternative Assistance Program (CAAP).

(t) through (z) Reserved

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.4; and Section 1596.792, Health and Safety Code.

Amend Sections 44-503.11, .122, .134, .135, and .14 to read:

44-503 PROGRAM ELIGIBILITY

44-503

.1 An AU shall be eligible for SCC if all of the following conditions are met:

.11 A member of the AFDC AU is working and the county determines that adequate dependent care can not be provided during his/her working hours by a parent or caretaker ~~parent or caretaker~~ other person in the recipient's AU who is legally responsible for the child.

.12 The child care costs were paid for a child who meets the following conditions:

.121 The child:

- (a) Is in the AU; or
- (b) Would be AFDC-FG/U eligible but for the receipt of federal foster care or Supplemental Security Income/State Supplementary Payment (SSI/SSP).

.122 The child is:

- (a) Under the age of 13/; or
- (b) Age 13 or over and ~~physically~~ physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist and meets the age requirements under the AFDC program, as specified in Section 42-101/; or
- (c) Age 13 or over and ~~Under~~ under court supervision as specified in Welfare and Institutions Code Sections 601 and 602 and meets the age requirements under the AFDC program, as specified in Section 42-101.

.13 The child care provider meets all of the following conditions:

.131 Is 18 years old or older.

.132 Is not a parent or legal guardian of the child.

.133 Is not a member of the AU.

.134 Has a child day care license or is exempt from licensing.

.135 Has provided the SCC recipient with ~~the necessary information as specified in sections 44-506/12 through 115~~ a completed Part B of the SCC 6 for every month of care.

(a) The child care provider shall sign a declaration, under penalty of perjury, that the information contained in Part B of the SCC 6 is true and correct.

.14 The AU has provided ~~the necessary information to determine SCC eligibility~~ a complete SCC 6, as specified in Section 44-506.1.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.20; and 45 CFR 255.2, .3, .4, and .5.

Amend Sections 44-504.1 et seq., .2, .23, .3, and .4 to read:

44-504 PAYMENT ELIGIBILITY

44-504

- .1 SCC payments shall reimburse child care costs which do not exceed the monthly rate ceiling less the amount allowed for a child care earned income disregard in the AFDC computation as specified in Section 44-113.217.

.11 The rate ceiling shall be determined from the most current Regional Market Rate Survey of Child Care Costs in accordance with Welfare and Institutions Code Section 11508(b).

HANDBOOK BEGINS HERE

~~111 The Regional Market Rate ceilings are determined based on a statistically valid survey of the rates established by child care providers for private clients.~~

.111 The Regional Market Rate Survey is conducted by the California Child Care Resource and Referral Network.

.1112 The rate ceilings are determined based on:

- (a) The age of the child,
- (b) ~~The~~ Whether the child is a child with special needs ~~of the child,~~
- (c) The type of care provided,
- (d) The number of hours of care, either full-time or part-time care as defined in Sections 44-502(f)(1) and (p)(2), and
- (e) The care provider's geographic location in California.

HANDBOOK ENDS HERE

.12 The county shall determine the appropriate monthly rate ceiling using the following process:

.121 The county shall determine whether care is provided on a part-time or full-time basis for each calendar month that child care is provided.

.122 For each calendar month of care:

- (a) The county shall locate the monthly rate ceiling on the survey that corresponds to the age and category of care in the region in which the care is provided, and
- (b) The county shall locate the appropriate monthly rate ceiling for either full-time or part-time care, as specified in Sections 44-502.1(f)(1) and (p)(2), based on the total number of hours of care for the calendar month.

- .2 The county shall ~~only~~ issue a SCC payment only when the child care hours claimed are for the following:

- .21 Work hours.
- .22 Transportation time between the worksite and the child care provider.
- .23 When necessary, hours based on the provider's written standard billing practice.

HANDBOOK BEGINS HERE

- .24 Examples of eligible hours.

.241 Example: A day care provider charges all families based on a weekly rate. The provider charges for any days the SCC child is absent, regardless of the reason (i.e., holidays, sick days and vacation). The provider also charges for days the parent is on holiday. Since this is the provider's billing practice for nonsubsidized families, a request for payment which includes these days would meet the payment eligibility requirements under this section.

.242 Example: A provider charges all families based on an hourly rate. The provider only charges for hours of care provided. The SCC child attends school and needs only after-school care. The county would compare the hours worked, including transportation time, to the hours of care, taking into consideration the time the child is in school.

.243 Example: A provider charges all families based on an hourly rate. The parent works from 4 p.m. to 12 a.m. The provider charges for nine hours of child care, because the parent leaves the child in care a half hour before starting work and a half hour after ending the work shift. The county would compare the hours worked including transportation time to the hours of care. A request for payment for nine hours of care would meet the payment eligibility requirements of this section.

HANDBOOK ENDS HERE

- .3 The county shall not approve a SCC payment ~~for~~ for a new child care provider if a payment was made for the same period of time to the prior-authorized provider unless the change was due to an emergency situation under Section 44-504.31.

- .31 An emergency situation occurs when care cannot be provided or the provision of care places the child at risk of harm.

- .4 The SCC payment as defined in Section 44-505.1 shall be prorated from the beginning date of aid in accordance with the procedures in Section 44-315.7, when the beginning date of aid is after the first of the month.

HANDBOOK BEGINS HERE

- .41 Example: The total monthly SCC payment amount is \$150. However, aid began on March 17th and March has 31 days. The Reciprocal Table in Section 44-315.73 shows a figure of .4839 for the 17th day of a 31-day month. The total monthly SCC payment amount X the reciprocal = the prorated SCC amount ($\$150 \times .4839 = \72.585). The \$72.585 is rounded down to \$72 which is the amount of the SCC payment.

HANDBOOK ENDS HERE

- .5 The county shall not issue SCC payments pending a state hearing if SCC Program eligibility is denied. If a county reduction of the SCC payment is appealed, the recipient shall be entitled to the reduced amount of the SCC payment pending the state hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.1(c) and (e)(4); 45 CFR 255.2(a)(1); and 45 CFR 255.4(a)(2) and (3), (c)(2) and (i)(1).

Amend Section 44-505.12 and modify Handbook Examples 1, 2, and 3 to read:

44-505 PAYMENT COMPUTATION

44-505

- .1 When the AU is determined eligible for the SCC payment, the county shall pay the difference between:
- .11 The actual child care costs paid up to the applicable monthly rate ceiling, and
- .12 The allowable child care earned income disregard or the portion thereof, used in Section 44-113.217 to reduce the net countable income.
- .121 If no child care earned income disregard is allowed in the AFDC computations as specified in Section 44-113.217, reduce the amount determined in Section 44-505.11 by \$0.

HANDBOOK BEGINS HERE

Example 1: When net countable income subtotal computed in Section 44-113.21 exceeds the total child care earned income disregard allowed.

AU of 3, (parent and 2 children, ages 5 and 1 years). Monthly child care costs are \$200 for the 5 year old and \$250 for the 1 year old. Gross income is \$750.

Computation from Section 44-113.21

Gross income	\$750
Standard work expense disregard	<u>-90</u>
	\$660
\$30 disregard	<u>-30</u>
	\$630
1/3 disregard	<u>-210</u>
Subtotal	\$420
Child care earned income disregard for the 5 year old (maximum allowed for a child over 2)	<u>-175</u>
	\$245
Child care earned income disregard for the 1 year old (maximum allowed for a child 2 years and under)	<u>-200</u>
Net Income to AU	<u>\$ 45</u>

SCC Computation

Actual child care paid for 5 year old	\$200
Monthly rate ceiling	<u>330</u>
Lesser of two above	200
Disregard allowed for 5 year old	<u>-175</u>
SCC payment for 5 year old	= \$ 25

Actual child care paid for 1 year old	\$250
Monthly rate ceiling	<u>389</u>
Lesser of two above	250
Disregard allowed for 1 year old	<u>-200</u>
SCC payment for 1 year old	= \$ 50

Total SCC Payment	= \$ 75
-------------------	---------

Example 2: When net countable income subtotal computed in Section 44-113.21 is less than the allowable child care earned income disregard.

AU of 3, (parent and 2 children, both over 6 years). Monthly child care costs are \$175 per child. Gross income is \$375.

Computation from Section 44-113.21

Gross income	\$375
Standard work expense disregard	<u>-90</u>
	\$285
\$30 disregard	<u>-30</u>
	\$255
1/3 disregard	<u>- 85</u>
Subtotal	\$170 ¹
Child care earned income disregard (maximum allowed for 2 children over 2 years)	<u>-350</u>
	- \$180
Net Income to AU	<u>\$-0-</u>

SCC Computation

Actual child care paid for first child	\$175
Monthly rate ceiling	<u>240</u>
Lesser of two above	175
Portion of disregard used for first child	<u>-170¹</u>
SCC payment for first child	= \$ 5
Actual child care paid for second child	\$175
Monthly rate ceiling	<u>240</u>
Lesser of two above	175
Portion of disregard used for second child	<u>- 0²</u>
SCC payment for second child	= \$175
Total SCC Payment	= \$180

¹ Here, only \$170 of the allowable \$175 child care earned income disregard was used to reduce countable income, i.e., only \$170 was needed to reduce the income to -0-.

² Here, none of the allowable \$175 child care earned income disregard was used to reduce the net countable income, i.e., the net countable income was entirely offset in the computation for first child.

Example 3: When net countable income subtotal computed in Section 44-113.21 results in the recipient not receiving any amount of the allowable child care earned income disregard.

AU of 3, (parent and 2 children, ages 4 and 1 years). Monthly child care cost is \$45 for each child. Gross income is \$120.

Computation from Section 44-113.21

Gross income	\$120
Standard work expense disregard	<u>-90</u>
	\$ 30
\$30 disregard	<u>-30</u>
Subtotal	\$-0-
Child care earned income disregard (maximum allowed)	<u>- 90</u>
	- \$ 90
Net Income to AU	<u>\$-0-</u>

SCC Computation

Actual child care paid for 4 year old	\$ 45
Monthly rate ceiling	<u>160</u>
Lesser of two above	45
Portion of disregard used for 4 year old	<u>- 0¹</u>
SCC payment of 4 year old	= \$ 45
Actual child care paid for 1 year old	\$ 45
Monthly rate ceiling	<u>-180</u>
Lesser of two above	45
Portion of disregard used for 1 year old	<u>- 0¹</u>
SCC payment of 1 year old	= \$ 45
Total SCC Payment	= \$ 90

¹ Here, none of the allowable child care earned income disregards were needed to reduce the net countable income subtotal since it was already reduced to \$0 prior to deducting any child care earned income disregards.

HANDBOOK ENDS HERE

.2 Counties shall round payments to the nearest lower whole dollar.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.20(a)(11)(i)(D); 45 CFR 255.3(h)(2); 45 CFR 255.4(a) and (a)(2)(iii); and the Preamble in Federal Register, Volume 54, Number 97, page 42233.

Amend Sections 44-506.1 et seq. to read:

44-506 RECIPIENT RESPONSIBILITIES

44-506

- .1 The recipient shall provide the county with the following information using the Monthly Child Care Eligibility Report (SCC 6) by the fifth calendar day of each report month along with the monthly report process under Section 40-181.22. An SCC 6 not received by the eleventh calendar day of the month shall be considered late.

.11 A complete SCC 6, which includes the following:

.111 Part A completed by the SCC participant.

(a) The SCC participant shall ensure that all information is completed for each eligible child for whom the SCC participant is requesting an SCC payment.

(b) The SCC participant shall sign a declaration, under the penalty of perjury, that the information contained in Part A of the SCC 6 is true and correct.

.112 Part B completed, as specified in Section 44-503.135, by each eligible child care provider.

(a) When there is more than one child care provider for the eligible child(ren) in the SCC participant's family, a separate SCC 6, Part B only, is required for each child care provider.

.12 A complete CA 7/SAWS 7, as specified in Section 40-181.241, or

/11 Verification of employment and the number of hours of employment;

.1121 Acceptable verification shall be pay stubs.

.1122 Self-certification by the recipient of hours worked is acceptable only if pay stubs are not available or are incomplete.

/12 Total child care hours provided during the month/

/13 Total child care costs for the month/

/14 The child care provider's name/ and address/

/15 Whether the provider is a licensed child day care center/ licensed family day care home/ or an exempt child day care provider/

/16 A certification from the exempt child day care provider that he/she is at least 18 years of age and whether he/she is a relative of the SCC recipient/

117 A declaration/ signed under penalty of perjury/ by the child care provider that the information submitted under sections 44-506.12 through 16 is true and correct/

118 A declaration/ signed under penalty of perjury/ by the recipient that the information submitted under section 44-506.1 is true and correct/

- .2 The failure to meet the requirements in Section 44-506.1 shall result in a denial of the SCC payment.
- .3 The failure to provide the SCC 6 required in Section 44-506.1 by the eleventh calendar day of each month may result in a delay of the SCC payment.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.1(e); 45 CFR 255.2(a) and (g); 45 CFR 255.4(h); and 42 U.S.C. Section 1320(b-7) (Section 402 of the Social Security Act).

Amend Sections 44-507.14 and .22 to read:

44-507 COUNTY RESPONSIBILITIES

44-507

.1 General

- .11 The county shall inform applicants and recipients in writing about the availability of SCC payments and shall provide the Monthly Child Care Eligibility Report (SCC 6) necessary to request SCC payments at the following intervals:
 - .111 At the time of application as specified in Section 40-131.3(u).
 - .112 At the time of annual redetermination.
 - .113 When earned income is first reported as specified in Section 40-181.11.
- .12 At the intervals specified in Section 44-507.11, the county shall inform current SCC recipients in writing that a failure to provide the SCC 6 in a timely manner could result in delay of issuance or denial of SCC payments.
- .13 At the intervals specified in Section 44-507.11, the county shall inform the SCC recipient in writing of his/her right to request a state hearing regarding SCC benefits and that aid paid pending the state hearing decision is not available as specified in Section 44-504.5.
- .14 ~~When provided,~~ Counties shall compare the child care provider's SSN, when provided, with the Medi-Cal Eligibility Data System (MEDS) to determine whether the provider is receiving AFDC, Food Stamps, and/or Medi-Cal benefits.
- .15 Counties shall inform SCC recipients of the availability of the Transitional Child Care Program according to Section 40-173.8.

.2 Action on SCC Payment Requests

- .21 The county shall issue the SCC payment to eligible recipients by the first of the month following the report month unless the SCC 6 is received after the eleventh day of the report month.

HANDBOOK BEGINS HERE

- .211 Example: If child care costs were paid in November and reported by December 5th, the county shall issue the SCC payment by January 1.

HANDBOOK ENDS HERE

- .22 When the SCC 6 is received after the eleventh day of the report month, the county shall issue the SCC payment within 30 calendar days from the receipt of ~~verification of child care costs~~ the SCC 6.
- .23 The county shall deny an SCC payment by the first day of the payment month when the SCC 6 was submitted timely but the recipient did not meet the eligibility criteria specified in Sections 44-503 and 44-504.
- .24 The county shall deny an SCC payment when the SCC 6 was submitted after the first day of the payment month unless the recipient had good cause under Section 40-181.233.
- .25 The county shall deny an SCC payment when an incomplete SCC 6 is submitted.
 - .251 The county shall inform the recipient within ten calendar days after the date of receipt of the SCC 6 that the denial shall be rescinded if complete child care information is received by the first day of the payment month.
- .26 The county shall rescind the denial of the SCC payment and grant SCC in the following situations:
 - .261 When the recipient provides the completed SCC 6 by the first day of the payment month; or
 - .262 When the recipient provides the completed SCC 6 after the first day of the payment month but meets the good cause criteria specified under Section 40-181.233.
- .3 SCC Notice Requirements
 - .31 The county shall issue an appropriate Notice of Action (NOA) to SCC recipients, pursuant to procedures specified in MPP Sections 22-021 and 22-022 for the following types of SCC actions and changes:
 - .311 Approval of an SCC payment that shall include an explanation of the SCC payment amount and the rate ceiling.
 - .312 Denial of an SCC payment.
 - .313 Change in the rate ceiling described in Section 44-502(r)(1).
 - .314 Collection of overpayment from SCC recipients under Section 44-508.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.28(e); 45 CFR 235.110; 45 CFR 255.1(e); 45 CFR 255.2(a), (g), (g)(2), and (h); 45 CFR 255.4(c)(2), (f)(2), and (h); and 45 CFR 256.4(c).

Amend Sections 44-508.13 and .421 to read:

44-508 UNDERPAYMENTS AND OVERPAYMENTS

44-508

.1 General Criteria

.11 Underpayments occur when an SCC payment made to the recipient is less than what he/she is entitled to receive.

.111 Action to correct underpayments shall be taken within 30 calendar days from the date the county determines that an underpayment exists.

.12 Overpayments occur when an SCC payment to the recipient exceeds what he/she is entitled to receive.

HANDBOOK BEGINS HERE

.121 An overpayment may be all or a portion of an SCC payment.

HANDBOOK ENDS HERE

.13 The county shall take all reasonable steps necessary to ~~promptly~~ correct any underpayment and collect any overpayment that is known to the county within the time frames specified in Sections 44-508.111 and .22.

.131 The county shall refer cases of suspected fraud to the county Special Investigative Unit (SIU) under MPP Section 20-005.

.132 The county shall attempt recovery efforts in all cases of current and former AFDC recipients.

.14 The county shall recover SCC overpayments from any person who was a member of the AU at the time the AU was overpaid.

.2 Initiating Recovery

.21 When the county has determined that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery under Sections 44-508.3 and .4.

.211 Recovery methods may be used concurrently.

.22 The county shall take steps to initiate recovery within 30 calendar days from the date the overpayment is discovered by notifying the individual in writing that he/she has an overpayment and how recovery will occur under Sections 44-508.3 and .4.

.3 Overpayment Recovery from Current SCC Recipients

.31 Balancing

.311 When an individual has both an overpayment and an underpayment, the county may offset one against the other.

.32 SCC Payment Adjustment

.321 The overpayment is to be adjusted from the current SCC payment subject to Section 44-508.322.

(a) When the current SCC payment amount is not enough to recover the entire overpayment, the remaining amount of the overpayment shall be applied to succeeding month(s) and the adjustment process shall be repeated.

.322 Recovery from the current SCC payment(s) shall be ten percent of the total payment or \$21 dollars, whichever is greater, but the recovery shall not exceed the current SCC payment.

.33 Voluntary Cash Recovery

.331 The county shall accept any voluntary cash payment from an individual to pay any portion of an existing overpayment.

.4 Overpayment Recovery from Former SCC Recipients

.41 The county shall demand in writing, the repayment of any outstanding overpayment amount from any individual who is no longer eligible to receive SCC payments.

.42 SCC overpayments shall be adjusted from the recipient's AFDC grant when:

.421 The recipient and the county voluntarily agree with the amount of the AFDC grant adjustment/; and

.422 The individual signs a written agreement with the county.

.43 Once the demand letter for repayment has been sent, the county shall continue recovery efforts of SCC overpayments in:

.431 All cases of fraud;

.432 All cases of current AFDC recipients;

.433 All cases of former AFDC recipients when the overpayment amount would equal or exceed the cost of recovery.

.44 The county shall recoup SCC overpayments from families receiving Transitional Child Care (TCC) payments by following TCC overpayment collection procedures under Section 47-190.

U

.5 Overpayment Record Maintenance

- .51 The county shall maintain a record of the overpayment including all notices and agreements, the repayment dates and amounts recovered.
- .52 Once collection of the overpayment is completed, the overpayment records shall be retained in accordance with requirements for records retention of public assistance cases, as specified in Section 23-350.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 255.2(h); 45 CFR 255.4(j)(1), (4), (5), (6), (7), and (8); and the Preamble in Federal Register, Volume 54, Number 197, page 42234.

Amend Section 44-509.11 to read:

44-509 DATA COLLECTION

44-509

.1 The county shall collect and report data as required by CDSS.

.11 Information shall include the following:

.111 Total number of AFDC families receiving SCC payments each month, including the

(a) Number of AFDC-FG families receiving SCC payments each month, and

(b) Number of AFDC-U families receiving SCC payments each month.

.112 Total number of children receiving SCC payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);

(a) Number of AFDC-FG children receiving SCC payments each month by the type of care, and

(b) Number of AFDC-U children receiving SCC payments each month by the type of care.

.113 Expenditures for children receiving SCC payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);

(a) Amount of expenditures for AFDC-FG children each month by type of care, and

(b) Amount of expenditures for AFDC-U children each month by type of care.

.114 Number of months that each family has received child care services, if available.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code and Federal Action Transmittal JOBS-ACF-AT-92-1.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

1293-50

OAL FILE
NUMBERS

NOTICE FILE NUMBER

Z94-0415-01

REGULATORY ACTION NUMBER

95-0609-08C

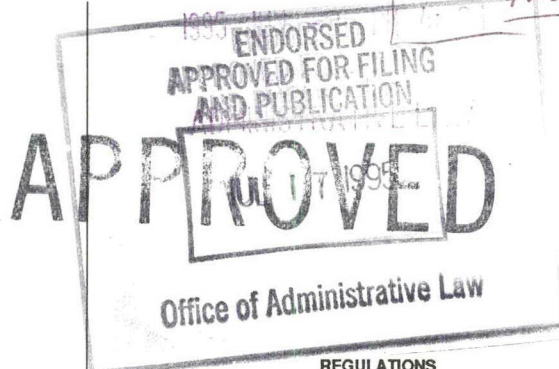
EMERGENCY NUMBER

95-0208-03ER

PREVIOUS REGULATORY ACTION NUMBER

94-1227-02C

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

ORIGINAL
For use by Secretary of State only

FILED

In the office of the Secretary of State
of the State of California

JUL 17 1995

At 4:17 O'clock P.M.
BILL JONES, Secretary of StateBy Robert A. Conner
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE California Alternative Assistance Program (CAAP)		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-1117-2	PUBLICATION DATE 4-29-94

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT 40-020, 89-710, 89-705, 89-710, 89-715, 89-720, 89-725, 89-730, 89-735, and 89-740
SECTIONS AFFECTED	AMEND 40-131, 40-181, 44-111, 44-207, and 89-102
	REPEAL

2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

- ☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45) (See attached for August 3 through 18, 1994, December 1 through 16, 1994, and May 4 through 19, 1995 revised sections.)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)
☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

- ☐ Other (Specify)

6. CONTACT PERSON
Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER
651-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE JUN -9 1995

Correction to B2 and addition of previous regulatory action numbers per written agency request 7/17/95 BC

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

3. August 3, 1994 to August 18, 1994 Renotice

Sections Amended

44-207.322
89-705.1(e), (f), (p), (r)(3), and (r)(4)
89-710.11, .132(b) and (c), and .145
89-715.1 and .5
89-720.1
89-725.17, .171, .173, .174, and .3
89-730.213, .215, .216, .33, .34, .36, .37, .38, .39, .517, and .52

December 1, 1994 to December 16, 1994 Renotice

Sections Amended

89-705.1(e), and (r)(2) and (4)
89-710.11, .145, and .15
89-715.3
89-725.1, .111, .112, .13, .16, .17, .18, .19, and .3
89-730.11, .212, .33, .34, .35, .36, .37, .38, .51, .513, .516, and .52
89-735.23, .231, and .233
89-740.11

May 4, 1995 to May 19, 1995 Renotice

Sections Amended

80-310s.
89-701 et seq.
89-705.1(e)(1)(A) et seq., and (r)(2) and (4)
89-710.11, .144, .145, and .15 et seq.
89-715.11 et seq., .12 et seq., .23, .3, and .4
89-725 et seq.
89-730.11, .212, .3 et seq., and .51 et seq.
89-735.13, .212, and .232(a)

3. August 3, 1994 to August 18, 1994 Renotice

Sections Amended

44-207.322
89-705.1(e), (f), (p), (r)(3), and (r)(4)
89-710.11, .132(b) and (c), and .145
89-715.1 and .5
89-720.1
89-725.17, .171, .173, .174, and .3
89-730.213, .215, .216, .33, .34, .36, .37, .38, .39, .517, and .52

December 1, 1994 to December 16, 1994 Renotice

Sections Amended

89-705.1(e), and (r)(2) and (4)
89-710.11, .145, and .15
89-715.3
89-725.1, .111, .112, .13, .16, .17, .18, .19, and .3
89-730.11, .212, .33, .34, .35, .36, .37, .38, .51, .513, .516, and .52
89-735.23, .231, and .233
89-740.11

May 4, 1995 to May 19, 1995 Renotice

Sections Amended

80-310s.
89-701 et seq.
89-705.1(e)(1)(A) et seq., and (r)(2) and (4)
89-710.11, .144, .145, and .15 et seq.
89-715.11 et seq., .12 et seq., .23, .3, and .4
89-725 et seq.
89-730.11, .212, .3 et seq., and .51 et seq.
89-735.13, .212, and .232(a)

40-020 IMPLEMENTATION OF CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP) 40-020

- .1 The adoption of Chapter 89-700 and the amendment of Sections 40-131.3, 40-181.2, 44-111.3, 44-207.322, and 89-102, which implement the California Alternative Assistance Program (CAAP) shall be effective May 1, 1994. Counties are required to meet the CAAP informing requirements at application and redetermination of eligibility for applicants and recipients subject to the California Work Pays Demonstration Project (CWPDP) beginning May 1, 1994.
- .2 Chapter 89-700, for applicants and recipients subject to the CWPDP, is adopted to implement the CAAP to comply with the provisions of Welfare and Institutions Code Section 11280 (Chapter 69, Statutes of 1993).
- .3 Section 40-131 is amended to require that AFDC applicants be informed about CAAP at the time of AFDC application.
- .4 Section 40-181 is amended to require that AFDC recipients be informed about CAAP at the time of AFDC redetermination.
- .5 Section 44-111 is amended to exempt CAAP payments from consideration as income for AFDC.
- .6 Section 44-207 is amended to require that an individual be considered to have received an AFDC payment when the assistance unit (AU) has received benefits under the CAAP.
- .7 Section 89-102 is amended to require that CAAP be included in the CWPDP provisions of Section 89-700 et seq. The county shall apply these provisions to those applicants and recipients who are designated as members of the Project's control and experimental groups.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

.3 Content of Application Interview

HANDBOOK BEGINS HERE

- v. See Section 89-730 for the additional informing requirements for applicants subject to the California Work Pays Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 10604, and 18904, Welfare and Institutions Code.

Reference: Section 10613, 11209, 11280, 11324.8(a), AB 312, Chapter 1568, Statutes of 1990, 11500(b), and 11511(a), Welfare and Institutions Code; 7 USC 2020(i), 7 CFR 273.2(j), 42 USC 616(f), 682(c)(2), (3) and (4), 45 CFR 250.20, 45 CFR 250.40(a) and (b); 45 CFR 255.1; 45 CFR 256.1(b).

.2 Periodic Determination of Eligibility

HANDBOOK BEGINS HERE

See Section 89-730 for the additional informing requirement at eligibility redetermination for recipients subject to the California Work Pays Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 10604, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 42 U.S.C. 616(b) and (f); 45 CFR 233.28 and 235.112(b); and Sections 10553, 10554, 10604, 11280, and 11486, Welfare and Institutions Code.

.3 Exemption of Payments from Public Sources (Continued)

- h. Payments made for child care costs under the California Alternative Assistance Program are exempt from consideration as income.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11008.15, 11255, and 11280, Welfare and Institutions Code; 42 USC Section 602(g)(1)(E)(i); Section 202(a), Public Law 100-485; 45 CFR 244.0(c); 45 CFR 233.20(a)(4)(ii); 45 CFR 233.20(a)(11)(v)(C); 45 CFR 255.3(f)(1); Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Amend Section 44-207.322(b)2. to read:

44-207 INCOME ELIGIBILITY (Continued)

44-207

.3 Financial Eligibility (Continued)

.32 Net Nonexempt Income (Continued)

- .322 For purposes of determining financial eligibility, the earned income exemption (\$30 and 1/3) shall be applied subject to the limitations of Section 44-111.23* and only if the person who earned the income was eligible for and received an AFDC payment from any state during at least one of the immediately preceding four months and is currently included in the AU.

HANDBOOK BEGINS HERE

*See Section 89-301.1 for elimination of the 4-month time limit for the \$30 and 1/3 earned income disregards and elimination of the additional 8-month limit for the \$30 earned income disregard. This will apply to those recipients who are subject to the Assistance Payments Demonstration Project as specified in Division 89.

HANDBOOK ENDS HERE

- (a) A person is considered to have received an AFDC payment when:
1. The grant for the AU is reduced to zero to adjust or offset a prior overpayment; or
 2. The AU has received benefits under the California Alternative Assistance Program as specified in Chapter 89-700.
- (b) A person is not considered to have received an AFDC payment if the ~~FAU~~ AU was on other noncash grant status including: (Continued)
2. Refused Cash Grant, except as provided for in Section 44-207.322(a)(2), or other Medi-Cal-Only cases under Title 22 of the California ~~Administrative~~ Code of Regulations.

Authority Cited: Sections 10553, 10554, 11450, and 11453, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11017, 11255, and 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(2)(xiii) and (3)(vi)(B) and (xiv); and Darces v. Woods, 35 Cal. 3d 871; Rutan v. McMahon, Case No. 612542-L (Alameda Superior Court) February 19, 1988; Letter from Department of Health and Human Services (DHSS), December 5, 1990; Johnson v. Carlson Stipulated Judgement; Federal Terms and Conditions for the California Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Amend Section 80-310s. to read:

80-310 DEFINITIONS - FORMS (Continued)

80-310

s. (3) SAWS 7

The "Monthly Eligibility/Status Report" (Rev. ~~4/90~~ 1/93) is used in place of the CA 7 and is mandatory in fully automated SAWS counties and optional in all other counties.

(4) SCC 6

The "Monthly Child Care Eligibility Report" (Rev. 3/95) is used to gather information monthly to determine eligibility to receive child care assistance in the Supplemental Child Care Program or the California Alternative Assistance Program.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(8) and Section 11054, Welfare and Institutions Code.

HANDBOOK BEGINS HERE

.1 Background

Pursuant to state law, the California Department of Social Services has requested and received federal approval for two California Demonstration Projects entitled the Assistance Payments Demonstration Project and the California Work Pays Demonstration Project. These Projects enable California, in accordance with their federally mandated Terms and Conditions, to implement certain new AFDC provisions.

The Assistance Payments Demonstration Project provisions are contained in Division 89. They include work incentive provisions, MAP reductions and a relocation grant restriction. The California Work Pays Demonstration Project provisions contained in Division 89 include increased property limits, restricted accounts, and the California Alternative Assistance Program. (For "Cal Learn" see Division 42.)

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.2 Control Group

Except for the provisions found in Chapter 89-700, related to the California Alternative Assistance Program, the county shall not apply the Division 89 Assistance Payments Demonstration Project and the California Work Pays Demonstration Project provisions to those applicants and recipients who are designated as members of the Projects' control groups. CAAP applies to both the experimental and control groups in all APDP/CWPDP counties. The designation and treatment of the control groups shall be accomplished pursuant to the Projects' mandated parameters outlined in the Federal Terms and Conditions as approved by the Secretary of the Department of Health and Human Services.

Authority Cited: Sections 10553, 10554, 11201.5, 11209, and 11450(g), Welfare and Institutions Code.

Reference: Sections 11155.1, 11155.2, 11201.5, 11280, 11450.01, 11450.03, and 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(3)(i)(B); Federal Terms and Conditions for the Assistance Payments Demonstration Project as approved by the United States Department of Health and Human Services on October 30, 1992; and Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994.

Amend Section 89-701 et seq. to read:

89-700 CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP)

89-701 THE CALIFORNIA ALTERNATIVE ASSISTANCE PROGRAM (CAAP)

89-701

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- .1 The California Alternative Assistance Program (CAAP) is mandated by Welfare and Institutions Code Section 11280 (Chapter 69, Statutes of 1993). It provides funding for child care to applicants eligible for or recipients of aid with earned income who voluntarily decline or refuse an AFDC grant. The objective of the CAAP is to provide an incentive to AFDC families with children to seek and/or maintain employment by removing the barrier of high child care costs. In assisting these families with their child care costs, it is hoped that employment will be obtained and maintained which will result in self-sufficiency from the welfare system.

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- .2 A CAAP participant is/

~~/11~~ Øconsidered an AFDC recipient who is/

~~/22~~ \$subject to all requirements of the AFDC program.

- .3 CAAP payments are payments for child care costs for those participating in and eligible for CAAP.

.31 A CAAP payment is not considered an assistance payment and; therefore, is not eligible for recoupment under the Title IV-D program.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; ~~and~~ the Federal Terms and Conditions for the California Work Pays Demonstration Project as approved by the United States Department of Health and Human Services on March 9, 1994; the Preamble (Federal Register Volume 54, No. 197, p. 42233); 42 USC 602(g)(3)(A); and 42 USC 603(a).

Amend Sections 89-705.1(e)(1) et seq., (f)(1), (p)(1), and (r)(2), (3), and (4) to read:

89-705 DEFINITIONS

89-705

.1 The following definitions pertain only to Chapter 89-700.

- (a) (1) "AU" means the AFDC assistance unit which consists of a group of related persons living in the same home who have been determined eligible for AFDC.
- (b) (1) "Budget Month" means the month preceding the report month and is used to determine the amount of the CAAP payment.
- (c) (1) "CAAP Participant" means an AFDC eligible person who has signed a CAAP agreement.
- (d) (1) "Date of Receipt" means the date that a document is received by the county, either through the mail or delivered in person.
- (e) (1) "Exempt from Licensing" means a child care provider who is not required to obtain a family child day care license.

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(A) Examples of when a child day care license is not required ~~pursuant to California Code of Regulations, Title 22, Section 101138, include:~~

1. ~~The nonrelative child~~ Any family day care home providing care for the children of only one family in addition to his/her the operator's own children, as defined in Health and Safety Code Section 1596.792 and the care is provided "in the provider's own home" as specified in Health and Safety Code Section 1596.78; or
2. ~~The child care provider is related to the~~ care only for children for to whom care is given the provider is related as defined in Section 89-705(r)(3); or
3. ~~The child care provider is a public or private school or a recreation program as defined in Health and Safety Code Section 1596.792 or .793; or~~
4. ~~The child care is provided by a public or private school which operates a program before and/or after school for school-age children; providing the program offered by the school is operated by the school and run by qualified teachers employed by the school or the school district.~~

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- (f) (1) "Full-Time ~~Child~~ Care" means child care provided by a child care provider for more than 147 hours per calendar month.
- (g) through (o) Reserved
- (p) (1) "Part-Time ~~Child~~ Care" means child care provided by a child care provider for 147 hours or less per calendar month.
- (2) "Payment Month" means the month following the report month.
- (q) Reserved
- (r) (1) "Rate Ceiling" means the 75th percentile of the regional market rate or the 100th percentile of the regional market rate when the region has no more than two providers serving that age and category of care.
- (2) "Regional Market Rate (RMR)" means the costs of child care in each county differentiated by age of child, a child with special needs, type of care, and whether the care is provided full- or part-time as established in the Regional Market Rate Ceilings for California Child Care Providers.
- (3) "Relative" as it relates to exempt care is defined in California Code of Regulations, Title 22, Division 12, Section 101152(r)(1) for the purposes of CAAP.
- (~~3~~4) "Report Month" means the month in which a CAAP participant is required to submit the ~~monthly eligibility report~~ CA 7/SAWS 7 and SCC 6, which contains information from the previous month, also known as the budget month.
- (s) through (z) Reserved

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections ~~10553/ 10554/ and~~ 11280 and 11508(b), Welfare and Institutions Code; Sections 1596.78 and 1596.792, Health and Safety Code; 45 CFR 255.4(a)(1)(ii), (a)(2)(ii) and (iii), and (a)(3), (a)(3)(i), (ii), (iii), and (iv); and the Preamble (Federal Register Volume 54, No. 197, p. 42218(1), (2), and (3)).

Amend Sections 89-710.11, .132(b) and (c), .14 et seq., and .15 et seq. to read:

89-710 PROGRAM ELIGIBILITY

89-710

.1 An AU shall be eligible to participate in CAAP if otherwise eligible for AFDC and all of the following conditions are met:

.11 ~~A The CAAP participant, who is a member of the AFDC AU, is working and requires child care to remain employed~~ the county determines that child care cannot be provided during his/her working hours by a parent or other person in the CAAP participant's AU who is legally responsible for the child.

.12 The CAAP participant signs a statement stating that it is clearly understood that to receive CAAP he/she must decline a cash grant.

.13 The child care costs are paid for a child who meets the following conditions:

.131 The child:

(a) Is in the AU; or

(b) Would be AFDC-FG/U eligible but for the receipt of federal foster care or Supplemental Security Income/State Supplementary Payment (SSI/SSP).

.132 The child is:

(a) Under the age of 13; or

(b) ~~Over~~ Age 13 or over and is physically or mentally incapable of caring for himself/herself based on a written statement of a physician or a licensed or certified psychologist, and meets the age requirements under the AFDC program, as specified in Section 42-101; or

(c) ~~Over~~ Age 13 or over, and under court supervision as specified in Welfare and Institutions Code Sections 601 and 602 and meets the age requirements under the AFDC program, as specified in Section 42-101.

.14 The child care provider meets all the following conditions:

.141 Is 18 years old or older.

.142 Is not a parent or legal guardian of the child.

.143 Is not a member of the AU.

.144 Has a child day care license or is exempt from licensing.

.145 Has provided the CAAP participant with the completed Part B of the SCC 6 for every month of care.

(a) The child care provider shall sign a declaration, under the penalty of perjury, that the information contained in Part B of the SCC 6 is true and correct.

.15 The ~~AV~~ CAAP participant has provided, in accordance with the time frames specified in Section 40-181.22, the necessary information to determine CAAP eligibility and the CAAP payment, as specified in Section 89-725.11, county with the following:

.151 A complete SCC 6, as specified in Section 89-725.11.

.152 A complete CA 7/SAWS 7, as specified in Section 40-181.241.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11265.1, 11280(b), and 11320.3(j)(5), Welfare and Institutions Code; 45 CFR 255.1(e)(1) and (4); 45 CFR 255.2, (a), and (a)(1); 45 CFR 255.4(c)(2), and (c)(2)(ii), (f)(2), and (h); and 45 CFR 255.5(a); and the Preamble (Federal Register Volume 54, No. 197, p. 42218(1), (2), and (3)).

Amend Sections 89-715.1 et seq., .23, .3, .4, and .5 to read:

89-715 PAYMENT ELIGIBILITY

89-715

- .1 CAAP payments shall be used to pay for child care costs at the actual cost of care up to the federal maximum reimbursement rate ~~(75% per month)~~ based on the monthly Regional Market Rate (RMR) ceilings.

.11 The rate ceiling shall be determined from the most current regional market rate survey of child care costs in accordance with Welfare and Institutions Code Section 11508(b).

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~~111 The RMR ceilings are determined based on a statistically valid survey of the rates established by child care providers for private clients in accordance with Welfare and Institutions Code Section 11508(b).~~

.111 The regional market rate survey is conducted by the California Child Care Resource and Referral Network.

.1112 The rate ceilings are determined based on:

- (a) The age of the child,
- (b) Whether the child is a child with special needs,
- ~~(c)~~ The type of care provided,
- ~~(d)~~ The number of hours of care, either full-time or part-time, as defined in Sections 89-705.1(f)(1) and (p)(1), and
- ~~(e)~~ The care provider's geographic location in California.

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.12 The county shall determine the appropriate monthly rate ceiling by the following process:

.121 The county shall determine whether care is provided on a part-time or full-time basis for each calendar month that child care is provided.

.122 For each calendar month of care:

- (a) The county shall locate the monthly rate ceiling on the survey that corresponds to the age and category of care in the region in which the care is provided, and

(b) Shall locate the appropriate monthly rate ceiling for either full-time or part-time care, as specified in Sections 89-705.1(f)(1) and (p)(1), based on the total number of hours of care for the calendar month.

.2 The county shall only issue a CAAP payment when the child care hours claimed are for the following:

.21 Work hours.

.22 Transportation time between the worksite and the child care provider.

.23 When necessary, hours based on the provider's written standard billing practice.

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.24 Examples of eligible hours.

.241 Example: A provider charges all families based on an hourly rate. The parent works from 4 p.m. to 12 a.m. The provider charges for nine hours of child care, because the parent leaves the child in care a half hour before starting work and a half hour after ending the work shift. The county would compare the hours worked including transportation time to the hours of care. A request for payment for nine hours of care would meet the payment eligibility requirements under this section.

.242 Example: A day care provider charges all families based on a weekly rate. The provider charges for any days the CAAP child is absent, regardless of the reason (i.e., holidays, sick days and vacation). Since this is the provider's billing practice for nonsubsidized families, a request for payment which includes these days would meet the payment eligibility requirements under this section.

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.3 The county shall not approve a CAAP payment ~~to~~ for a new child care provider if a payment was made for the same period of time to the prior-authorized provider unless ~~care by the prior-authorized provider cannot be provided or the provision of care places the child at risk of harm~~ the change was due to an emergency situation under Section 89-715.31.

.31 An emergency situation occurs when care cannot be provided or the provision of care places the child at risk of harm.

.4 ~~When the beginning date of CAAP eligibility is after the first of the month/~~ The CAAP payment, as defined in Section 89-720.1, shall be prorated from the beginning date of aid in accordance with procedures specified in Section 44-315.7, when the beginning date of aid is after the first of the month.

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- .41 Example: The CAAP participant became eligible for AFDC on the 17th of the month. The submitted child care receipt shows child care costs of \$150 for the whole month. The Reciprocal Table in Section 44-315.73 shows a figure of .4839 for the 17th day of a 31-day month. The total monthly CAAP payment amount x the reciprocal = the prorated CAAP amount ($\$150 \times .4839 = \72.585). The \$72.585 is rounded down to \$72 which is the amount of the CAAP payment.

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- .5 The county shall not ~~pay and paid pending the state hearing decision for CAAP~~ issue CAAP payments pending a state hearing if CAAP eligibility is discontinued. If a reduction of the CAAP payment is appealed, the participant shall be entitled to the reduced amount of the CAAP payment pending the state hearing.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11280 and 11508(b), Welfare and Institutions Code; 45 CFR 255.1, (c), and (e)(4); 45 CFR 255.2, (a), (a)(1), and (h)(2); and 45 CFR 255.4(a), (a)(1)(ii), (a)(2)(ii) and (iii), (a)(3)(i), (ii); and (iii), (c)(2), and (i)(1).

Amend Section 89-720.1 et seq. to read:

89-720 CHILD CARE PAYMENT COMPUTATION

89-720

- .1 The county shall pay the lesser of the actual child care costs paid or the applicable monthly ~~75th percentile~~ rate ceiling.

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- .11 Example: Child care costs are within the RMR.

An employed mother has two children, ages 5 and 1, in a child care center in Alameda County. The mother works 120 hours per month and child care is for 130 hours per month per child, which includes transportation time to and from work. The child care provider charges a weekly rate of \$75 for the 5-year-old and \$95 for the 1-year-old. The total child care cost the child care provider charges for the month is \$735, \$324 for the 5-year-old and \$411 for the 1-year-old.

CAAP COMPUTATION:

(1) 5-year-old child:
~~75th percentile~~
Monthly rate ceiling \$328
Actual child care costs/mo. \$324

(2) 1-year-old child:
~~75th percentile~~
Monthly rate ceiling \$442
Actual child care costs/mo. \$411

CAAP Payment for 5-year-old child: \$324
CAAP Payment for 1-year-old child: + \$411
TOTAL CAAP PAYMENT: \$735

- .12 Example: Child care costs exceed the RMR.

The AU of four includes a working father, an incapacitated mother on SSI, and two children ages 6 and 8. The father is employed 160 hours per month and child care is for 180 hours per month per child, which includes transportation time to and from work. The children are placed in a family day care home in Colusa County, where the monthly child care cost is \$365 per child.

CAAP COMPUTATION:

(1) 6-year-old child:
~~75th percentile~~
Monthly rate ceiling \$324.75
Actual child care costs \$365.00

(2) 8-year-old child:

~~75th percentile~~

Monthly rate ceiling \$324.75

Actual child care costs \$365.00

CAAP Payment for 6-year-old child: \$324.75

CAAP Payment for 8-year-old child: + \$324.75

TOTAL CAAP PAYMENT: \$649.00

(rounded down)

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.2 Counties shall round payments to the nearest lower whole dollar.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11280 and 11508(b), Welfare and Institutions Code; 45 CFR 255.4(a) and (a)(2)(iii); and the Preamble (Federal Register Volume 54, No. 197, page 42233).

I S

Amend Section 89-725 to read:

89-725 CAAP PARTICIPANT'S RESPONSIBILITIES

89-725

.1 In accordance with the time frames specified in Section 40-181.22, the CAAP participant shall provide the county with the following information that is necessary to determine CAAP program and payment eligibility along with the monthly eligibility report in accordance with the time frames specified in Section 40-181.22.

.11 A complete SCC 6, which includes the following:

.111 Part A completed by the CAAP participant.

(a) The CAAP participant shall ensure that all information is completed for each eligible child for whom the CAAP participant is requesting a CAAP payment.

(b) The CAAP participant shall sign a declaration, under the penalty of perjury, that the information contained in Part A of the SCC 6 is true and correct.

.112 Part B completed, as specified in Section 89-710.145, by each eligible child care provider.

(a) When there is more than one child care provider for the eligible child(ren) in the CAAP participant's family, a separate SCC 6, Part B only, is required for each child care provider.

.12 A complete CA 7/SAWS 7, as specified in Section 40-181.241.

111 Verification of employment and the number of hours of employment;

112 The name and birthdate of each child for whom care is to be provided;

113 Total child care hours provided during the month including the scheduled hours of care;

114 Total child care costs for the month;

115 The care provider's name and address;

116 Whether the provider is a licensed day care center/ licensed family day care home/ or an exempt day care provider/ and

1161 The social security number (SSN) of an exempt provider/ or

1162 The tax ID number for a licensed provider/

- 117 A certification from the exempt day care provider that he/she is/
 - 1171 At least 18 years of age/
 - 1172 Whether he/she is a relative of the CAAP participant/
 - 1173 When not related, that he/she provided the CAAP participant the name/ address and telephone numbers of two character references/
 - 1174 A statement as to his/her/
 - (a) Health/
 - (b) Education or experience/ and
 - (c) Criminal record/ and
 - 1175 Names and ages of other persons in the home providing care/
- 118 A declaration/ signed under penalty of perjury/ by the child care provider that the information submitted under Sections 89-723.11 through 117 is true and correct to the best of his/her knowledge/
- 119 A declaration/ signed under penalty of perjury/ by the CAAP participant that the information submitted under Sections 89-723.11 through 118 is true and correct to the best of his/her knowledge/
- 13 .13 The CAAP participant must indicate to the county if A request for a change from CAAP to AFDC grant status when he/she no longer chooses to participate in CAAP. and now chooses to return to AFDC grant status/
 - .131 This change must be indicated on the CA 7/SAWS 7.
- .2 The CAAP participant must notify the county of/
 - 121 Any changes in child care arrangements, including changes in providers, so that the county can determine the eligibility of the new child care provider as specified in Section 89-710.14.
 - 122 Any changes in work status/

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Sections 11349(b) and (e), Government Code.

Reference: Section 11280, Welfare and Institutions Code; 45 CFR 233.36; 45 CFR 255.1(e) and (e)(1); 45 CFR 255.2, (a), and (a)(1), and (g)(1); and 45 CFR 255.4(c)(2) and (h).

Amend Sections 89-730.11, .21 et seq., .3 et seq., .421(a), .51 et seq., and .52 to read:

89-730 COUNTY RESPONSIBILITIES

89-730

.1 Informing and Participation

.11 The county shall inform AFDC/~~CAAP~~ applicants and AFDC recipients in writing about the availability of the CAAP program at the following intervals:

.111 At the time of application as specified in Section 40-131.3.

.112 At the time of redetermination as specified in Section 40-181.2.

.12 The AFDC eligible person shall only be permitted to choose to participate in CAAP at the intervals specified in Sections 89-730.11.

.2 Signed CAAP Agreement

.21 Within 30 days of the completion of the eligibility determinations made at the intervals specified in Section 89-730.11, the county shall obtain a signed statement from the individual choosing CAAP which shall contain the following information:

.211 The choice for CAAP means refusing an AFDC grant in order to receive child care assistance.

.212 The failure to provide the ~~monthly eligibility report~~ CA 7/SAWS 7 and ~~child care information~~ the SCC 6 to the county in a timely manner may result in delay of payment issuance or discontinuance of CAAP ~~payments~~ eligibility.

.213 The CAAP participant has the right to request a state hearing regarding CAAP benefits, but aid paid pending the state hearing decision is not available as specified in Section 89-715.5.

.214 The CAAP participant's rights will be waived for any other AFDC assistance programs such as the Reduced Income Supplemental Payments (RISP), Homeless Assistance, and/or special needs.

.215 The conditions under which an individual becomes eligible for a CAAP payment.

.216 The conditions under which an individual becomes ineligible for a CAAP payment.

.3 General

- .31 The county shall determine a CAAP participant's AFDC eligibility on a monthly basis by utilizing all AFDC eligibility criteria pursuant to Sections 44-207.2 and .3.
- .32 The county shall issue the CAAP payment to eligible CAAP participants in accordance with the standard delivery dates of aid payments in Sections 44-304.5 or 44-305.2.
- .33 The county shall discontinue CAAP eligibility on the last day of the month ~~in the following situations when:~~

.331 ~~When~~ The CAAP participant no longer ~~did not~~ meets the eligibility criteria specified in Sections 89-710.11 and/or .15; and/or ~~(Program Eligibility) and 89-713 (Payment Eligibility)~~

.332 ~~When the required information is not submitted by the first day of the payment month.~~ All of the children in the CAAP family no longer meet the eligibility criteria specified in Section 89-710.13; and/or

.333 All of the child care providers for the eligible children no longer meet the eligibility criteria specified in Section 89-710.14.

.34 By the first day of the payment month the county shall deny CAAP payments as follows:

.341 The entire CAAP payment for one month when the CAAP participant is not eligible for an AFDC grant because the case is in suspension for one month as specified in Section 44-315.8.

.342 Part of the CAAP payment when one or more of the following occurs:

(a) The CAAP family consists of more than one child and:

(1) one of the children listed on the SCC 6 does not meet the eligibility criteria specified in Section 89-710.13.

(2) the information provided on the SCC 6 is complete, as required in Section 89-725.111(a), for at least one of the eligible children, but not complete for all of the eligible children for whom the CAAP participant is requesting a CAAP payment.

(b) There is more than one child care provider and:

(1) one of the providers does not meet the eligibility criteria specified in Section 89-710.14.

(2) the CAAP participant fails to submit a separate SCC 6, Part B only, for each child care provider, as required in Section 89-725.112(a).

(3) these providers were used for the same time period for the same child, but only one provider was eligible for payment, as specified in Section 89-715.3.

.35 When noticing the CAAP participant of a program discontinuance or payment denial, the county shall inform the CAAP participant that the act will be rescinded if the CAAP participant meets the eligibility requirements as specified in Sections 89-710.13, .14, and .15 within 10 calendar days after the date of the notice.

.346 The county shall rescind the discontinuance of CAAP eligibility or denial of the CAAP payment and restore the CAAP payment if the CAAP participant meets the good cause criteria specified in Section 40-181.233, and meets the reporting requirements as specified in Section 40-181.222 when the county determines that the basis for discontinuance or denial was incorrect, which includes the good cause criteria specified in Section 40-181.233, and that the participant is eligible for CAAP.

135 In addition to the AFDC case documentation, the county shall include the following in the CAAP participant's file:

1351 The information reported by the CAAP participant in sections 89-725.11, 12, and 13, and

1352 All notices of action (NOTAS) sent to the CAAP participant, and

1353 Documentation of the need for child care for a child age 13 or over. (See Section 89-710.132(b) of title)

136 Counties shall verify the child care provider's SSN with the Social Security Administration according to provisions in Manual of Policies and Procedures Division 20.

1361 Counties shall deny the CAAP payment when the SSN is determined not to be authentic.

.37 Counties The county shall compare the child care provider's SSN, when provided, with the Medi-Cal Eligibility Data System (MEDS) to determine whether the provider is on aid and is reporting the earned income in accordance with Section 40-181.241(e) receiving AFDC, Food Stamps, and/or Medi-Cal benefits.

.38 The county shall inform CAAP participants of the availability of the Transitional Child Care Program according to Section 40-173.8.

.4 Prospective and Retrospective Payments

.41 Prospective Payment Procedures

.411 The county shall prospectively budget the CAAP payment when the applicant or recipient is subject to prospective budgeting pursuant to Section 44-313.1.

.412 The county shall make a reasonable estimate of the child care costs using the procedures for calculating a payment specified in Section 89-720.1.

.42 Retrospective Payment Procedures

.421 AFDC recipients who choose CAAP shall continue in retrospective budgeting pursuant to Section 44-313.2.

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(a) Example:

May	June	July
AFDC Recipient indicates choice of prospectively budgeting for CAAP at redetermination.	AFDC Recipient signs CAAP agreement and continues to receive the AFDC grant based on costs reported on the April monthly eligibility report.	CAAP participant receives <u>the first</u> CAAP payment based on costs reported on the May monthly eligibility report.

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.422 CAAP participants who choose to return to AFDC grant status shall continue in retrospective budgeting.

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(a) Example:

July	August	September
CAAP participant reports income. He/she decides to no longer participate in CAAP.	County receives the July monthly eligibility report on which the CAAP participant indicated his/her decision. The CAAP agreement is rescinded and a final CAAP payment is issued.	Former CAAP participant receives the AFDC check based on his/her July income.

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.5 CAAP Notice Requirements

- .51 The county shall notice CAAP participants in accordance with the definitions of timely and adequate notice requirements, as specified in Manual of Policies and Procedures Sections 22-0021 and 22-022, for the following:
- .511 ~~Initial~~ Approval of CAAP eligibility and ~~amount of~~ CAAP payment.
 - .512 Denial ~~of discontinuance~~ of a CAAP payment.
 - .513 ~~Change in the rate ceiling described in Handbook Section 89-713/11/~~ Discontinuance of CAAP eligibility.
 - .514 CAAP overpayment/underpayment adjustments and overpayment demands, as specified in Section 89-735.
 - .515 Return to AFDC grant status.
 - .516 Nonreceipt of the ~~monthly child care eligibility report~~ SCC 6 or receipt of an incomplete monthly child care eligibility report SCC 6.
 - .517 Change in a CAAP rate ceiling, as specified in Section 89-705.1(r)(1).
- .52 The county shall follow the contact procedures, as specified in Section 40-181.221, for a late and/or incomplete ~~monthly eligibility reports~~ CA 7/SAWS 7 and SCC 6 as specified in Section 40-181/221.

.6 Inter-County Transfers

- .61 The inter-county transfers shall occur in the same manner for a CAAP participant as for an AFDC recipient. A new CAAP agreement shall be signed in the new county and provide all pertinent provider information.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11265.1, 11280(b) and (c), Welfare and Institutions Code; 45 CFR 233.22, .24, .25, .26(a)(3), .29(b) and (c), .34(b) and (c)(3), .35, ~~and~~ .36, and .37(c); 45 CFR 255.1(c), (e), and (e)(4); 45 CFR 255.2(a), (g)(1), (g)(2), (h), (h)(1), and (h)(2); 45 CFR 255.3(b), (c), and (h); ~~and~~ 45 CFR 255.4(a) and (a)(2)(iii), (c)(2), (f)(2), and (h); and 45 CFR 256.4(c).

Amend Sections 89-735.13, .212, and .23 et seq. to read:

89-735 UNDERPAYMENTS AND OVERPAYMENTS

89-735

.1 General Criteria

- .11 Underpayments occur when a CAAP payment made to the CAAP participant is less than what he/she is entitled to receive.
 - .111 Action to correct underpayments shall be taken within 30 calendar days from the date the county determines that an underpayment exists.
- .12 Overpayments occur when a CAAP payment to the CAAP participant exceeds what he/she is entitled to receive.
- .13 The county shall take all reasonable steps necessary to ~~promptly~~ collect any overpayment that is known to the county within the time frame specified in Section 89-735.212.
 - .131 The county shall refer cases of suspected fraud to the county Special Investigative Unit (SIU) under Manual of Policies and Procedures Section 20-005.
 - .132 The county shall attempt recovery efforts in all cases of current and former CAAP participants.
- .14 The county shall recover CAAP overpayments from any person who was a member of the AU at the time the AU was overpaid.

.2 Recovery of Overpayments

- .21 When the county determines that an overpayment exists, the county shall calculate the amount of the overpayment and determine the appropriate method of recovery.
 - .211 Recovery methods may be used concurrently.
 - .212 The county shall take steps to initiate the recovery ~~promptly~~ of overpayments within 30 calendar days from the date the overpayment is discovered by notifying the individual in writing that he/she has an overpayment and how recovery will occur as specified in Sections 89-735.22 and .23.
- .22 Overpayment Recovery from Current CAAP Participants
 - .221 Balancing
 - (a) When an individual has both an overpayment and an underpayment, the county may offset one against the other.

.222 CAAP Payment Adjustment

(a) The overpayment is to be adjusted from the current CAAP payment subject to Section 89-735.222(b).

(1) When the current CAAP payment amount is not enough to recover the entire overpayment, the remaining amount of the overpayment shall be applied to succeeding month(s) and the adjustment process shall be repeated.

(b) Recovery from the current CAAP payment(s) shall be ten percent of the total payment or \$21, whichever is greater, but the recovery shall not exceed the current CAAP payment.

.223 Voluntary Cash Recovery

(a) The county shall accept any voluntary cash payment from an individual to pay any portion of an existing overpayment.

.23 Overpayment Recovery from Former CAAP Participants ~~Who Presently Receive an AFDC Grant and from former CAAP participants no longer receiving AFDC/CAAP~~

.231 The county shall demand in writing, the repayment of any outstanding overpayment amount from any individual who is no longer eligible to receive CAAP payments ~~or AFDC~~.

.232 A former CAAP participant receiving an AFDC grant shall be permitted to have CAAP overpayments adjusted from his/her grant when:

(a) The CAAP participant and the county voluntarily agree with the amount of the AFDC grant adjustment/, and

(b) The individual signs a written agreement with the county.

.233 Once the demand letter for repayment has been sent, the county shall continue recovery efforts of CAAP overpayments in:

(a) All cases of fraud;

(b) All cases of current ~~CAAP participants~~ AFDC recipients; or

(c) All cases of former ~~CAAP participants~~ AFDC recipients when the overpayment amount would equal or exceed the cost of recovery.

.234 The county shall recoup CAAP overpayments from families receiving:

(a) TCC payments by following TCC overpayment collection procedures specified in Section 47-190.

(b) SCC payments by following SCC overpayment collection procedures specified in Section 44-508.

.3 Overpayment Record Maintenance

- .31 The county shall maintain a record of the overpayment including all notices and agreements, the repayment dates and amounts recovered.
- .32 Once collection of the overpayment is completed, the overpayment records shall be retained in accordance with requirements for records retention of public assistance cases, as specified in Manual of Policies and Procedures Section 23-353.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; 45 CFR 233.20(a)(13)(i); 45 CFR 255.4(j)(1), (4), (5), (6), (7), and (8); and the Preamble (Federal Register Volume 54, No. 197, page 42234).

Amend Section 89-740.11 to read:

89-740 DATA COLLECTION

89-740

.1 The county shall collect and report data as required by CDSS.

.11 Information shall include/ ~~but is not limited to~~ the following:

.111 Total number of AFDC families receiving CAAP payments each month, including the

(a) Number of CAAP-FG families receiving CAAP payments each month, and

(b) Number of CAAP-U families receiving CAAP payments each month.

.112 Total number of children receiving CAAP payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);

(a) Number of CAAP-FG children receiving CAAP payments each month by the type of care, and

(b) Number of CAAP-U children receiving CAAP payments each month by the type of care.

.113 Expenditures for children receiving CAAP payments each month by the type of child care (i.e., licensed or exempt, relative or non-relative, inside or outside child's home, family day care, or center care);

(a) Amount of expenditures for CAAP-FG children each month by type of care, and

(b) Amount of expenditures for CAAP-U children each month by type of care.

.114 Number of months that each family has received child care services, if available.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11280, Welfare and Institutions Code; 45 CFR 255.6; and Federal Action Transmittal JOBS-ACF-AT-92-1.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

(See instructions on reverse)

AGENCY FILE NUMBER (If any)
ORD #0695-25

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 95-0720-03E	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only

1995 JUL 20 PM 3:44

OFFICE OF ENDORSED
ADMINISTRATIVE ACTION
APPROVED FOR FILING
AND PUBLICATION

JUL 31 1995

Office of Administrative Law

NOTICE

Original
For use by Secretary of State only

FILED

In the office of the Secretary of State
of the State of California

JUL 31 1995

At 4:06 P.M.
BILLY JONES, Secretary of StateBy Colunata Comick
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Anderson v. Edwards		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

SECTIONS AFFECTED	ADOPT	
	AMEND	Section 82-824.13
	REPEAL	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) 8-1-95

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) _____

6. CONTACT PERSON

Frank R. Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson, Director

DATE

7-3-95

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 82-824.1 to read:

82-824 ASSISTANCE UNITS THAT SHALL BE COMBINED

82-824

- .1 Combining AUs Two or more AUs in the same home shall be combined into one AU when:
- .11 Marriage A caretaker relative is married to another caretaker relative in another AU, or
- .12 Child in Common Two caretaker relatives in the home have separate children and also have an eligible child in common/, or
- .13 One Caretaker Relative ~~Repealed by Manual Letter No/ EAS-92-08/ effective 11/1/92/~~
There is only one caretaker relative.

[Previous Cite: 44-205.3]

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: 45 CFR 206.10(a)(1); 45 CFR 233.90; 45 CFR 237.50(b)(5), SSA-AT-86-01; Section 242, California Civil Code; ~~and Edwards v. Healy/ Civ/ S/ 91-1473 PPL (1992)~~ Anderson v. Edwards 115 S.Ct. 718 (1995); and Sections 10553, 10554, 10604, 11000, and 11450, Welfare and Institutions Code. 1291

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

ORIGINAL
For use by Secretary of State only

AGENCY CALIFORNIA DEPARTMENT OF SOCIAL SERVICES		AGENCY FILE NUMBER (if any) 0594-13	
OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER 95-0619-105	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		PREVIOUS REGULATORY ACTION NUMBER	
NOTICE		REGULATIONS	

ENDORSED
APPROVED FOR FILING
AND PUBLICATION

AUG 1 1995

Office of Administrative Law

FILED

In the office of the Secretary of State
of the State of California

AUG 1 1995

At 3:33 O'clock P.M.
Bill Jones, Secretary of StateBy *Robert L. Conner*
Deputy

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#39-2	PUBLICATION DATE 9-30-94

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Sections 40-105, 40-107, 44-317, 45-201 and 82-832
	REPEAL

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

May 4, 1995 to May 22, 1995

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☐ Effective on filing with Secretary of State
 ☒ Effective other (Specify) October 1, 1995

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

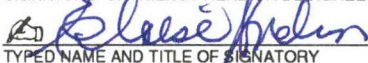
☐ Other (Specify)

6. CONTACT PERSON Frank R. Vitulli, Chief, Office of Regulations Development	TELEPHONE NUMBER 657-2586
---	------------------------------

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE



TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

JUN 16 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 40-105.2 to read:

40-105 APPLICANT AND RECIPIENT RESPONSIBILITY (Continued)

40-105

.2 Social Security Number (SSN)

.21 As a condition of eligibility, Each AFDC-FG and U applicant or recipient member of the FWP AU and all AFDC-FG children/ shall/ as a condition of eligibility:

.211 Furnish his/her Social Security Account Number (SSN) or numbers, if more than one, within 30 days following the date of the application for assistance; or

.212 If he/she cannot furnish an SSN/ cooperate in securing such number by:

(1/a) applying directly to a local office of the Social Security Administration (SSA); and submitting verification of such completed application to the county before aid can be authorized/ or within 30 days following the date of application for assistance before aid may be authorized. A completed application means an application that has been accepted by the SSA for processing; and,

by when the applicant/recipient has gone to the SSA office to apply for an SSN but additional information or documentation is required by the SSA before his/her application will be accepted/ submitting verification of his/her attempt to apply before aid can be authorized/ he/she shall continue to cooperate by making every reasonable effort to obtain the required information or documentation and by submitting it to the SSA when received/ the applicant/recipient will have 30 days to submit evidence of a completed application for a SSN to the county/

(2/b) furnishing the SSN to the county when received.

(c) See .221 below for a child(ren) who has been enumerated at birth through the Enumeration at Birth (EAB) Project.

.22 Verification of a completed SSN The application for an SSN on behalf of a newborn child(ren) to be added to the AU shall be made submitted to the county no later than the end last day of the month following the month in which the mother is released from the hospital.

.221 When a newborn child has been enumerated at birth, Form SSA 2853 is acceptable proof of application if it contains the name of the newborn, as well as the date and signature of an authorized hospital official.

(a) The SSN shall be furnished to the county within six months after receipt of the number or at redetermination, whichever occurs first.

=====

HANDBOOK BEGINS HERE

=====

- .222 (a) Example: Mother was discharged from the hospital on February 15, she has through March 31 to apply for an SSN for the newborn and submit verification of a completed application.
- (b) Example: Mother gave birth on May 8, but was not released from the hospital until May 20. She reported the birth of the child on the May CA 7 requesting that the child be added to her grant. The time period to apply for an SSN for the child and submit verification of a completed application to the CWD begins on May 21 and ends on June 30.
- (c) Example: Same scenario as above, but the mother remained in the hospital until June 2 due to complications. She has through July 31 to apply for an SSN for the child and submit verification of a completed application.
- (d) NOTE: For further information, see "Beginning Date of Aid", Section 44-317.

HANDBOOK ENDS HERE

=====

.23 (Continued)

.234 As a condition of eligibility, each AFDC-FC applicant or recipient shall have an SSN.

.241 For children applying for or receiving AFDC-FC, where a parent(s), legal guardian, or relative, is not available or not cooperating, the placing agency representative, on behalf of the child shall obtain or make application for the SSN.

1251

(a) ~~For purposes of establishing AFDC-FC eligibility~~ To satisfy the requirement specified in .24 above when the absence of identifying information prevents the placing agency representative from obtaining an SSN for an

abandoned child, the eligibility case file shall contain documentation of the attempt to apply for an SSN for the child, including the date the attempt was made, and the reason the attempt was unsuccessful.

- .275 As a condition of eligibility, applicants for and recipients of AFDC shall cooperate in resolving any discrepancies regarding SSNs, such as discrepancies arising from a cross-check of agency SSN files with those of the SSA. When there is a failure to cooperate, aid shall be denied or discontinued only for the member(s) of the ~~FPO~~ AU whose SSN(s) is in question.

~~407107/77~~

- .251 Once a recipient has been discontinued for not cooperating, aid may not be granted until the recipient has demonstrated that he/she is cooperating.

Authority cited: Sections 10553, 10554, 10604, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, 11209, 11266, 11268, and 11486, Welfare and Institutions Code; 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 233.10(a)(1)(iv) and 235.112(b); 7 CFR 273.16(b); and 42 U.S.C. 616(b).

Amend Section 40-107.7 to read:

40-107 COUNTY RESPONSIBILITY (Continued)

40-107

.71 Social Security Number (Continued)

.715 The county shall deny the application for assistance for any individual who refuses or fails to provide either an SSN or verification that an application for an SSN was completed within 30 days after the date of application for assistance. (See Section 82-832.24.)

(a) If the individual is the only eligible child, and the caretaker relative refuses or fails to provide either an SSN or verification that an application for an SSN was completed within 30 days after the date of the application for assistance, the entire AU is ineligible. (See Section 82-820.2).

(b) The county shall discontinue aid for any member of the AU who refuses or fails to furnish the SSN as required in 40-105.212(b) and/or (c).

40-105/212/21

.716 The county shall inform the applicant/recipient of his/her responsibilities under this section. If the county receives verification of application directly from the SSA, the requirements in Section 40-105.212(1a) are met. If the county receives the SSN directly from the SSA or from another federal or federally assisted program, the requirement in Section 40-105.212(2b) is met.

40-105/22

.717 Counties shall document in the case record the fact that the applicant/recipient submitted a completed application applied for or attempted to apply for an SSN and the method of verification.

.718 The county shall obtain the SSN of a child who has been enumerated at birth within six months after receipt of the number or at redetermination, whichever occurs earlier.

40-105.24

.72 Aid shall not be denied, delayed, or discontinued pending the issuance or verification of such number or numbers if the applicant/recipient has furnished his/her SSN or has submitted the necessary verification *and is cooperating to cooperate in securing such number* as required in Section 40-105.21 above. Immediate need cases are subject to the provisions of Section 40-129.214.

.723 All SSNs shall be verified by SSA through IEVS in accordance with Section 20-006.

.7231 The county shall deny the application or discontinue assistance for any individual who fails to cooperate in resolving a discrepancy between the furnished SSN and SSA files in accordance with the requirement of Section 40-105.275. *If the individual whose SSN is in question has provided an SSA card or other acceptable evidence of the number or has complied with the requirements of Section 40-105.272, he or she shall be considered to be cooperating.*

.77 *All cases in which an SSN or an application to SSA for a new or duplicate SSN card has not been provided shall be reviewed at least every 90 days to ensure that the recipient is cooperating as specified in Section 40-105.272. The review period shall commence with the date of application for AFDC. The date of each review shall be documented in the case file.*

.74 In AFDC-FC, when there is no identifying information as specified in Section 40-105.241(a), the case file shall be reviewed at redetermination to determine whether any change occurred that would enable the Social Security Administration to issue an SSN. The eligibility worker shall document the date the review was completed and any changes that have occurred. If new information is available, the parent(s), legal guardian, or relative, (if now available and cooperating) or the placing agency representative shall forward the application for an SSN to the Social Security Administration.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11268, 11324.8(a) and (f)(1), AB 312, Chapter 1568, Statutes of 1990, 11500(b), 11502(b), and 11511(a), Welfare and Institutions Code; 42 USC Sections 682(c)(2), (3), (4) and (5); 45 CFR 205.42(d)(2)(v)(A) and (B) as printed in Federal Register, Vol 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 205.55; 45 CFR 250.20; 45 CFR 250.40(a), (b), (c)(1) and (2); 45 CFR 255.1; and 45 CFR 256.1(b), and California Department of Health Services Manual Letter 77-1.

Amend Section 44-317.112 to read:

44-317 BEGINNING DATE OF AID FOR NEW APPLICATIONS

44-317

.1 Basic Date of Aid Determination (Continued)

- .112 "The date on which the applicant meets all eligibility conditions" means the date all linking and nonlinking factors of eligibility are met (see Section 40-107.3), even though verification or documentation of the eligibility condition is received at a later date. Technical conditions of eligibility, as specified in MPP 40-129.214, met at a later date are considered to be met on the date of application as long as they are completed by the date of authorization except for social security enumeration. Social security enumeration requirements must be met within 30 days of the application for assistance if aid is to begin on the date of application. (For social security enumeration requirements, see Section 40-105.2.)

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HANDBOOK BEGINS HERE

(a) and (b) (Continued)

- (c) Example: A family applies for AFDC on November 10. All family members meet the eligibility requirements except for the youngest child who does not have an SSN. On November 20, the CWD authorizes aid for everyone but the one child because verification of a completed application for an SSN had not been received. On December 10, the CWD received a copy of the MC 194 which indicated that an application for an SSN was completed on November 15 and is being processed. The county rescinds the denial for the child and authorizes aid effective November 10.

HANDBOOK ENDS HERE

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- .113 The beginning date of aid for each member of the AU may vary.

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HANDBOOK BEGINS HERE

(a) (Continued)

(b) Example: Same scenario as 44-317.112(c). However, on December 20, the county receives a copy of the MC 194 which indicates that an application for an SSN was completed on December 12 and is being processed. The county authorizes aid for the youngest child beginning December 12.

(c) Example: Mother gave birth on January 4. She was discharged from the hospital on January 7. She had not been receiving a pregnancy special need; nor did she report the birth to the county until March 9, at which time she submitted verification that her child had been enumerated at birth. The beginning date of aid for the child is March 9.

HANDBOOK ENDS HERE

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Authority cited: Sections 10553, 10554, 10604, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, and 11056, Welfare and Institutions Code; 45 CFR 205.42(d)(2)(A), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 206.10; 45 CFR 233.10(a)(1); 45 CFR 233.20(a)(1)(ii); 45 CFR 233.60; ^{and} 45 CFR 233.90(c)(2)(i) and Section 3510 (October 1961), Federal Handbook of Public Assistance Administration.

Amend Section 45-201.15 to read:

45-201 GENERAL AFDC-FC REQUIREMENTS

45-201

.1 The child shall meet: (Continued)

.15 The social security enumeration requirements in Section 40-105.24; and

.16 (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11008.15 and 11155.5, Welfare and Institutions Code.

Amend Section 82-832.24 to read:

82-832 EXCLUDED PERSONS (Continued)

82-832

.2 Sanctioned Persons (Continued)

.24 Social Security
Number

An applicant or recipient; or a child whose parent, caretaker relative, or legal guardian who:

.241

Refuses or fails to furnish an SSN or evidence of a completed application ~~apply~~ for an SSN ~~social security number~~, or

.242

Refuses or fails to cooperate in ~~securing or~~ verifying an SSN ~~social security number~~.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808, 45 CFR 205.52, 45 CFR 206.10(a)(5)(i), 45 CFR 232.12(d), 45 CFR 233.10(a)(1)(i), (a)(1)(i)(B), and (a)(3), 45 CFR 233.20(a)(1)(i), (a)(3)(ii)(C) and (F), and (a)(3)(ix), 45 CFR 233.50, 45 CFR 233.51, 45 CFR 233.90(c), (c)(1), and (c)(2)(iv), 45 CFR 233.100(a)(5)(ii), 45 CFR 233.106, and 45 CFR 250.34(a) and (c), and (c)(2); and Sections 11008.13, 11104, 11157, 11201(b), 11203, 11263.5, 11268, 11270, 11315, 11320.6(e), 11450, 11477, and 11486, Welfare and Institutions Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

ORIGINAL

For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY

AGENCY FILE NUMBER (If any)

ORD# 1293-49

California Department of Social Services

OAL FILE
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

95-0810-07E

For use by Office of Administrative Law (OAL) only

FILED
In the office of the Secretary of State
of the State of California

AUG 21 1995

4:05 P.M.
BILL JONES, Secretary of StateBy *Robert L. Jones*
Deputy Secretary1995-1-10
ENDORSED ON 4-17
APPROVED FOR FILING
AND PUBLICATION

AUG 21 1995

Office of Administrative Law

NOTICE

REGULATIONS

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE AFDC-FC Group Home Rate Setting		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER			
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 11-400; 11-402; 11-425; and 11-430
	REPEAL

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) _____

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) _____

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

AUG 10 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READoption

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 11-400 to read:

11-400 AFDC-FOSTER CARE RATES

11-400

Definitions. For purposes of the Foster Care Program, the following definitions shall apply wherever the terms are used throughout Chapter 11-400:

a. (1) ~~Reserved~~

Assessed Placement - A child eligible to be placed in a certified group home program classified at RCL 13 or RCL 14. The child must be assessed as seriously emotionally disturbed and in need of the level of services provided in the group home program classified at RCL 13 or RCL 14. The determination that a child is an assessed placement shall comply with Section 11-402.182. An assessed placement shall not be a child who needs inpatient care in a licensed health facility.

b. (Continued)

c. (1) (Continued)

(2) Certified Group Home Program - A group home program, accepting only assessed placements, that is classified at RCL 13 or RCL 14 and that is certified by the State Department of Mental Health or its designee as a program that provides mental health treatment services for seriously emotionally disturbed children.

(23) (Continued)

(34) (Continued)

(45) (Continued)

e. (1) (Continued)

(2) Emergency Placement - A child placed prior to determination that the child qualifies as an assessed placement where placement is in a certified group home program classified at RCL 13 or RCL 14. The child must be evaluated by a licensed mental health professional as described in Section 11-402.185.

i. (1) (Continued)

(2) (Continued)

(3) Inpatient Care in a Licensed Health Facility shall be defined in accordance with Health and Safety Code Section 1502.4(a)(2)(A) as follows:

HANDBOOK BEGINS HERE

"Inpatient care in a licensed health facility' means care and supervision at a level greater than incidental medical services as specified in Section 1507."

HANDBOOK ENDS HERE

- (4) Interagency Placement Committee (IPC) - A committee established by the county, with a membership that includes at minimum a representative of the county placement agency and a licensed mental health professional from the county department of mental health. The IPC determines whether a child whose placement is funded by AFDC-FC is an assessed placement and in need of the care and services provided by the group home program classified at RCL 13 or RCL 14. (Continued)
- m. (1) (Continued)
- (2) (Continued)
- (3) Mental Health Treatment Services - One of the three program components of the standardized rate setting system. These services include the evaluation, treatment, and psychometric testing performed by a licensed mental health professional while the licensed mental health professional and the child are together. Also included are day treatment programs which are certified by the State Department of Mental Health. (Continued)
- s. (1) Seriously Emotionally Disturbed (SED) shall be defined as in Welfare and Institutions Code Section 5600.3(a)(2).

HANDBOOK BEGINS HERE

Welfare and Institutions Code Section 5600.3(a)(2) states:

- "(a)(2) For the purposes of this part, 'seriously emotionally disturbed children or adolescents' means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:
- (A) As a result of the mental disorder the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:
- (i) The child is at risk of removal from home or has already been removed from the home.

- (ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.
- (B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.
- (C) The child meets special education eligibility requirements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code."

HANDBOOK ENDS HERE

- (12) (Continued)
- (23) (Continued)
- (34) (Continued)
- (45) (Continued)
- (56) (Continued)
- (67) (Continued)
- (78) (Continued)

Authority Cited: Sections 10553, 10554, 11462(i) and (j), and 11466.1, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 1200, 1250, 1502(a)(1), and 1502.4, 1502.4(a)(1), and (a)(2)(A), and 1502.4(b), Health and Safety Code; Section 3353 of the California Labor Code; Sections 4096, 4096(e)(2), 4096.5, 5600.3(a)(2), 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11234, 11235, 11236, 11400(h), 11460, 11462, 11462.01(a)(2)(A)(i) and (ii), 11462.01(a)(2)(B)(i), 11462.03, 11466.1, 11466.2, 11466.22, 11466.3, 11466.31, 11466.33, 11466.34, 11468, 11468.6, 16522(a), (b) and (c), and 18350, Welfare and Institutions Code, Assembly Bill 2129, Chapter 1089, Statutes of 1993, Senate Bill 415, Chapter 950, Statutes of 1993; The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050, Industrial Welfare Commission Order 5-89.

Amend Section 11-402 to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

- .15 The standardized schedule of rates for fiscal year 1990-91 is specified in Welfare and Institutions Code Section 11462(g). Beginning in FY 1994-95, Welfare and Institutions Code Section 11462(e)(3) specifies that the rate floor becomes 100 percent of the standardized schedule of rates.

HANDBOOK BEGINS HERE

- .151 Welfare and Institutions Code Section 11462(g)(e)(3) provides:

Rate Classification Level	Point Ranges	Standard Rate (FY 1994-95 Rate Floor)	FY 1990/91 Rate Floor (85%)
1	under 60	\$1,183	\$1,006
2	60-89	1,478	1,256
3	90-119	1,773	1,507
4	120-149	2,067	1,757
5	150-179	2,360	2,008
6	180-209	2,656	2,258
7	210-239	2,950	2,508
8	240-269	3,245	2,758
9	270-299	3,539	3,008
10	300-329	3,834	3,259
11	330-359	4,127	3,508
12	360-389	4,423	3,758
13	390-419	4,720	4,012
14	420 & up	5,013	4,261

HANDBOOK ENDS HERE (Continued)

- .18 In order to qualify for Requirements of rate classification levels (RCLs) of 13 or 14 the program shall meet the requirements of Welfare and Institutions Code Section 11462(g)(2).

HANDBOOK BEGINS HERE

- .181 Welfare and Institutions Code Section 11462(g)(2) states:

Group home programs which generate the requisite number of points for RCL 13 or 14, which only accept children with special treatment needs as determined through the assessment process in subdivision (b) of Section 11467 and which have as part of their program measurable performance standards developed by the county of placement, shall be classified at RCL 13 or 14.

HANDBOOK ENDS HERE

.181 The group home program shall meet all of the following requirements:

- (a) Generate sufficient points to be classified at RCL 13 or RCL 14;
- (b) Agree not to accept any child unless the child is either an assessed placement, as defined in Section 11-400a.(2), or an emergency placement, as defined in Section 11-400e.(2); and
- (c) Meet the certification requirements of a Certified Group Home Program, as defined in Section 11-400c.(2).

.182 The determination that a child is an assessed placement and the approval for placement of an AFDC-FC funded child shall be completed, in writing, by an Interagency Placement Committee (IPC), except as follows:

- (a) Group home providers may accept seriously emotionally disturbed children who are assessed and placed out-of-home pursuant to an Individualized Education Program (IEP) in lieu of being assessed and approved for placement by the IPC. An IEP developed under Section 7572.5 of the Government Code shall be deemed to have met the IPC requirements for approval for placement if it contains the following:
 - (1) The IEP must indicate that the child has been determined to be seriously emotionally disturbed; and
 - (2) The IEP must indicate the child is in need of the level of care provided by the group home program.
- (b) For a child whose referral into a group home program classified at RCL 13 or RCL 14 is not from a public agency and no public funds are involved, placement into a group home program classified at RCL 13 or RCL 14 shall not occur unless the child has been assessed. The assessment to determine whether the child is seriously disturbed and in need of the level of care and supervision provided by the group home program shall be completed by a licensed mental health professional.
 - (1) There shall be no requirement for either an assessment by the IPC or for a determination of need.
- (c) A child whose placement is county-only funded shall not be placed in a group home program classified at an RCL 13 or RCL 14 unless the child has been assessed by a licensed mental health professional. The child must be assessed as seriously emotionally disturbed and in need of the level of care and supervision provided by the group home program classified at RCL 13 or RCL 14.

HANDBOOK BEGINS HERE

(d) Welfare and Institutions Code Sections 11462(g)(3)(B)(i) through (g)(3)(B)(iii) as amended by Assembly Bill 1727 (Chapter 610, Statutes of 1991) for fiscal year 1991-92 are summarized as follows:

(1) For Fiscal Year 1991-92 only, the determination that any children, regardless of funding source, are assessed placements and the approval for placement shall be made by the local mental health program who will certify each child, except as follows:

(A) The child was in placement prior to the date of the 1991-92 mental health treatment program certification provided the group home program met all the following conditions:

(i) The group home program provided the level of care and services during the 1990-91 Fiscal Year necessary to generate sufficient points in the rate setting process to be classified at RCL 13 or RCL 14; and

(ii) The group home provider projected the program would provide such level of care and services in the 1990-91 and the 1991-92 Fiscal Years rate applications.

(e) Welfare and Institutions Code Section 11462(g)(3)(B)(i)(III) as amended by Senate Bill 307 (Chapter 714, Statutes of 1992) is summarized as follows:

(1) The determination and placement approval by the IPC shall not be required if all the following conditions are met:

(A) The child was certified to be an assessed placement by the local mental health program during the 1991/92 Fiscal Year;

(B) The child was placed in the group home program prior to July 1, 1992;

(C) The group home program was certified as meeting the local mental health program's criteria for the 1991/92 Fiscal Year;

(D) The group home program was paid a rate at RCL 13 or RCL 14 during the 1991/92 Fiscal Year; and

(E) The group home program applied for classification at RCL 13 or RCL 14 on the 1992/93 Fiscal Year rate application.

(f) Welfare and Institutions Code Sections 11462(g)(3)(B)(iii)(I) and (II) as amended by Senate Bill 307 (Chapter 714, Statutes of 1992) are summarized as follows:

(1) For Fiscal Year 1992-93 only, if a county did not yet have an IPC, or if a county had an IPC but procedures were not yet in place, the placing agency could, until December 15, 1992, make placements in RCL 13 or RCL 14 group home programs prior to December 15, 1992 if the condition in Section 11-402.182(f)(1)(A) is met.

(A) A licensed mental health professional makes a determination prior to placement that the child is an assessed placement; and

(B) Within 30 days of the establishment of the IPC or the adoption of procedures for the committee, the committee shall review such placements as to their appropriateness.

HANDBOOK ENDS HERE

.183 If an AFDC-FC funded child who is placed does not have written approval from the IPC for placement:

(a) The group home provider shall notify within 24 hours the county placing agency, in writing, and shall request the county to either obtain approval from the IPC or remove the child from the group home program.

(b) If the county placing agency fails to either obtain approval for placement of the child from the IPC or remove the child from the group home program within 30 days from the first date of the notice from the group home provider, the group home provider shall:

(1) Notify the county placing agency and the Department, in writing, within 5 days after the expiration of the 30-day notification period, of the county's failure to remove the child from the group home program.

(c) If the county placing agency fails to either obtain approval for placement of the child from the IPC or remove the child from the group home program within 30 days, the county shall be assessed a penalty by the Department:

- (1) The penalty shall be in the amount of the state and federal financial participation in the AFDC-FC rate paid on behalf of the child.
- (2) The penalty will commence on the 31st day of placement and continue until the child is removed.
- (d) If the group home provider fails to notify the county placing agency within 30 days from the child's first day of placement, the group home provider shall be assessed a penalty:
 - (1) The penalty shall be assessed against the group home provider by the county in the amount of the AFDC-FC rate paid on behalf of the child;
 - (2) The penalty shall commence on the 31st day of placement and shall continue until the provider notifies the county placing agency.

.184 For the emergency placement of a child into a certified group home program classified at RCL 13 or RCL 14 prior to determination that the child qualifies as an assessed placement:

- (a) Within 72 hours of the emergency placement in the group home program, a child receiving AFDC-FC funding, shall be evaluated, in writing, by a licensed mental health professional as being seriously emotionally disturbed and in need of the level of care and supervision provided; and
- (b) Within 30 days of the emergency placement, the IPC shall determine if the child qualifies as an assessed placement.
 - (1) For the child whose placement is determined to be appropriate, the IPC shall transmit approval, in writing, to the county placing agency and to the group home provider;
 - (2) For the child whose placement is determined not to be appropriate, the county placing agency shall immediately remove the child.

HANDBOOK BEGINS HERE

- (c) Welfare and Institutions Code Sections 11462(g)(3)(B)(iv) through (g)(3)(B)(v) amended by Assembly Bill 1727 (Chapter 610, Statutes of 1991) are summarized as follows:
 - (1) For Fiscal Year 1991-92 only, within 72 hours of the emergency placement in the group home program, the child shall be evaluated by a licensed mental health professional as being seriously emotionally disturbed and in need of the level of care and supervision provided; and

(A) Within 30 days of the first day of placement, the group home provider shall obtain for each child who has been determined to need emergency placement the certification by the local mental health program.

(B) For the child whose placement is determined not to be appropriate, the county placing agency shall remove the child.

.185 In such cases that the State Department of Mental Health or a delegated county terminates the mental health treatment program certification as referenced in Section 11-400c.(2), the Department of Mental Health or delegated county should immediately notify the California Department of Social Services (CDSS).

(a) Notification shall be made to the CDSS' Community Care Licensing Division; and

(b) Notification shall be made to the CDSS' Foster Care Rates Bureau.

HANDBOOK ENDS HERE

.186 The program certification issued by the State Department of Mental Health or its designee shall be valid for a period of one year unless terminated and shall specify the date the group home program met the certification requirements.

.187 In such cases that the the mental health treatment program certification as referenced in Section 11-400c.(2) is terminated, the group home provider shall within 24 hours:

(a) Notify the CDSS' Community Care Licensing Division;

(b) Notify the CDSS' Foster Care Rates Bureau; and

(c) Notify all placing agencies that have children placed in the program.

.119 Exceptions to the RCL determination from July 1, 1990 through June 30, 1992 are specified in Section 11-402.9.

.19 The IPC shall review the placement of the child as often as necessary, but no less than every six months.

.191 The IPC may, subsequent to the placement of the child in a group home program classified at RCL 13 or RCL 14, determine that the child is not seriously emotionally disturbed or is not in need of the care and services provided by the group home program. If the IPC determines that the placement into the group home program classified at RCL 13 or RCL 14 is not appropriate or that the child no longer needs, or is not benefitting from, placement in

an RCL 13 or RCL 14 program, the IPC shall require the removal of the child and a new disposition. In these situations, the IPC shall notify, in writing, both the county placing agency and the group home provider within ten days of the determination.

(a) The county placing agency shall notify the group home provider, in writing, within five days from the date of the notice from the IPC of the county's plan for removal of the child.

(b) The county placing agency shall remove the child from the group home program within 30 days from the date of notice from the IPC.

(c) If the county placing agency fails to remove the child within 30 days from the date of notice from the IPC, the group home provider shall:

(1) Notify the IPC and the Department, in writing, that the county failed to remove the child within 30 days from the date of the notice from the IPC; and

(2) The notification shall be within 5 days of the expiration of the 30-day period.

(d) If the county placing agency fails to remove the child from the group home program within 30 days from the date of the notice from the IPC, the county shall be assessed a penalty by the Department.

(1) The penalty shall be in the amount of the state and federal financial participation in the AFDC-FC rate paid on behalf of the child.

(2) The penalty will commence on the 31st day of placement and continue until the child is removed.

.192 For a child placed in a group home program classified at RCL 13 or RCL 14 that is later placed in another group home program classified at RCL 13 or RCL 14, a new determination by the IPC shall be required.

.2 Program Classification (Continued)

.22 Weightings for Program Component Hours (Continued)

.221 Child Care Supervision (CCS) Weightings (Continued)

(e) On-Going Training (Continued)

(7) For those group home programs classified at RCL 13 or RCL 14 to receive an additional weighting of 0.10 for each eligible hour of Childcare and Supervision (CCS), there shall be two options. In addition to qualifying by providing an average of 40 or more hours of ongoing training per childcare employee, the requirement for receiving the additional weighting shall be met if the childcare and first line childcare supervisory staff is trained in the management of assaultive behavior, and all the following conditions are met:

(A) The training must be at least 14 hours in length;

(B) The training must be conducted by a professional organization or someone trained and currently certificated by a professional organization as a qualified instructor, and approved by the Department;

(C) The entire childcare and CCS staff must complete the training and remain certified and the certifications must be current; and

(D) Documentation necessary to verify training as described in Section 11-400t.(1) and documentation that the requirements of Section 11-402.221(e)(7) have been met shall be maintained. In addition, if a provider chooses to claim additional points for training and selects this option, in lieu of submitting a training plan the provider shall submit the name of the professional organization providing the training, when it will be scheduled and the names of childcare staff the provider has scheduled to attend. (Continued)

.3 Group Home Annual Rate Application Process (Continued)

.35 An annual rate application with no program changes shall include:
(Continued)

.356 The group home training plan projected for a fiscal year or for providers with programs classified at RCL 13 or 14 who opt for the management of assaultive behavior training, the information required in Section 11-402.221(e)(7); and

.357 A certification by the provider that all information contained in the program statement previously submitted remain current with no changes/; and

.358 In addition to the items in Sections 11-402.351 through .357, a group home program classified at RCL 13 or RCL 14 shall submit:

(a) A written agreement, that the program shall accept for placement only assessed placements or emergency placements, as provided in Section 11-402.181(b). The agreement shall include the following:

(1) An original signature of the same individual whose signature appears on the SR 1; and

(2) The date signed.

(b) A statement, accompanied by appropriate documentation, that the requirements of Section 11-402.181(c) regarding the program certification have been met. (Continued)

.4 Deviations from Annual Rate Setting

.41 New Program

.411 An initial rate application from an existing provider for a new program shall include all required forms and information listed in Sections 11-402.351 through 11-402.358 with the following additional requirements: (Continued)

.42 New Provider (Continued)

.422 An initial rate application from a new provider shall include all required forms and information listed in Sections 11-402.351 through 11-402.358 with the following additional requirements: (Continued)

.43 Program Changes (Continued)

.433 A program change application projecting an increase of an RCL level to a group home program shall be accompanied by the placement agency recommendation, as specified in Section 11-402.12.

(a) For program change applications projecting one RCL increase at RCL 12 or lower, ~~except~~ the first RCL increase in the lifetime of a program shall not require the placement agency recommendation.

- (b) A program change application to change a program to RCL 13 or RCL 14 shall include a recommendation, as specified in Section 11-406.12, from either the host or the primary placing county. (Continued)

HANDBOOK BEGINS HERE

- (c) Welfare and Institutions Code Section 11462(g)(4) as amended by Senate Bill 307 (Chapter 714, Statutes of 1992) is summarized as follows:

Between July 1, 1992, and June 30, 1994, a program change application to change a program to RCL 13 or RCL 14 shall include a recommendation from both the host county and the primary placing county. (Continued)

HANDBOOK ENDS HERE

- .436 The rate following a program change by the type of changes shall be: (Continued)

- (d) Any program change to a group home program classified at RCL 13 or RCL 14 that impacts the program's RCL and/or substantially impacts the level of care and services offered by the program shall necessitate:

(1) A new determination by the IPC for each child in placement that the child is in need of the level of care and services provided by the group home program, and

(2) A new mental health treatment program certification as referenced in Section 11-400c.(2) for the program as modified by the program change. (Continued)

- .44 Programs Classified at RCL 12 or Below Which Fail to Maintain the RCL

- .441 A group home provider who self-reports information in a rate application as defined in Section 11-400r.(1) that results in a failure to maintain its RCL shall be subject to the provisions of Section 11-402.443. For programs classified at RCL 13 or RCL 14 refer to Section 11-402.46.

- .442 Providers with programs classified at RCL 1 through RCL 12 which fail to maintain the projected RCL shall submit the information required by Section 11-402.432 unless: (Continued)

.45 Program Reinstatement

- .451 A program reinstatement is a process to re-establish a program that has been terminated as specified in Section 11-402.39, 11-402.524, 11-402.525, 11-402.526, 11-402.527, 11-402.667, 11-402.668, 11-402.669, and 11-402.7. A program shall be reinstated when the Department determines that all appropriate application requirements specified in Sections 11-402.3 and 11-402.667 have been met. For programs classified at RCL 13 and RCL 14, all requirements as specified in Section 11-402.181 must be met.
(Continued)

.46 RCL 13 And RCL 14 Programs Reclassification

- .461 If a group home program classified at RCL 13 or at RCL 14 fails to meet the requirements specified in Section 11-402.181 during any 90-day period, the Department shall:

- (a) Reclassify the group home program at the appropriate lower RCL; and
- (b) Reduce the group home program's rate.

- .462 The effective date of the new rate shall be the date conditions in Section 11-402.181 occur.

- (a) A period longer than 90 days shall not be used to average the RCL.

- .463 Penalties for failure to meet the requirements in Section 11-402.181(b) are specified in Sections 11-402.183(d), and 11-402.531(c).

HANDBOOK BEGINS HERE

- .464 Welfare and Institutions Code Sections 11462(g)(8) through (g)(9) as amended by Assembly Bill 1727 (Chapter 610, Statutes of 1991) are summarized as follows:

- (a) For an audit of Fiscal Year 1991-92 conducted prior to July 1, 1992, any group home program classified at RCL 13 or RCL 14 which fails to meet the requirements to be classified at RCL 13 or RCL 14, will be reclassified at the appropriate lower RCL with a commensurate reduction in rate when any of the following occur:
 - (1) The group home program fails to maintain the level of care and services necessary to generate the requisite number of points for RCL 13 or 14.
 - (2) The group home program fails to maintain a certified mental health treatment program as required.

(3) The group home program accepts placement of a child who has not been certified, and the lack of certification is discovered during a group home program audit conducted prior to July 1, 1992.

(b) The effective date of any such reclassification and reduction in rate shall be the date of occurrence of any of the conditions cited above.

HANDBOOK ENDS HERE

.5 Program Audits (Continued)

.52 Providers shall maintain program records for a minimum of five years and make them easily accessible to any Departmental staff conducting program audits. Program records to be maintained include, but are not limited to the following: (Continued)

.522 Case management records, which may include, but are not limited to:

(a) Treatment plan; psychological evaluations/reports; medical evaluations/releases; mental health professional billings including Medi-Cal billings; education evaluations/information; correspondence; dictation and documentation of services provided; court orders; quarterly reports/program reports; information required by licensing regulations under Title 22; verification from the placement agency required in Section 11-402.411(a)(7); including copies of the certifications and assessments specified in Section 11-400a.(2) and Sections 11-402.181(b) and .181(d) for children placed in a group home program classified at RCL 13 or RCL 14; copies of the program certification specified in Section 11-400c.(2) and Section 11-402.181(c) for group home programs classified at RCL 13 or RCL 14; all RCL significant information pertaining to a client shall be included in the client's record; and mental health professional's daily logs and notes, including information pertaining to day treatment programs, which verify that services were provided to children in placement. (Continued)

.53 Conducting Program Audits

.531 Program audits of on/going programs with no program changes during the audit period shall be conducted by receiving the provider's report of the actual RCL and program information for the audit period. (Continued)

(b) The Department shall:

- (1) For group home programs classified at RCL 12 or below, or for programs classified at RCL 13 or 14 when an audit was conducted prior to September 14, 1992, §select and review for accuracy no fewer than two months, plus the most current completed month of operation, of reported data for each fiscal year of the audit period. (Continued)
- (4) For audits conducted for group home programs classified at RCL 13 and RCL 14, the audit period shall consist of any 90-day period in a single fiscal year as specified in Welfare and Institutions Code Section 11462.01(d).

HANDBOOK BEGINS HERE

Welfare and Institutions Code Sections 11462.01(d), and (d)(1) and (2) state the following:

"(d) Any group home program that has been classified at RCL 13 or RCL 14 pursuant to the requirements of subdivision (a) shall immediately be reclassified at the appropriate lower RCL with a commensurate reduction in rate if either of the following occurs:

(1) The group home program fails to maintain the level of care and services necessary to generate the necessary number of points for RCL 13 or RCL 14, as required by paragraph (1) of subdivision (a), during any 90-day period. No average fiscal year RCL, as used in the department's AFDC-FC ratesetting regulations, or corrective action, as defined in the department's AFDC-FC ratesetting regulations, shall be used to determine the date at which that event has occurred.

(2) The group home program fails to maintain a certified mental health treatment program as required by paragraph (3) of subdivision (a)."

HANDBOOK ENDS HERE

(c) The Department shall determine whether or not children in placement in a group home program, classified at RCL 13 or RCL 14, are assessed placements, as defined in Section 11-400a.(2).

(1) If the group home program does not have written approval from the IPC for any AFDC-FC funded child placed, the Department shall assess a penalty against the group home provider:

(A) The penalty shall be in the amount of the AFDC-FC rate paid on behalf of the child;

(B) The penalty shall commence the 31st day of placement and shall continue until the date the provider notifies the county placing agency, in writing, requesting the county to obtain approval from the interagency placement committee or removal of the child from the program.

(2) If, during a group home program audit, it is discovered that a child was not certified during the 1991/92 Fiscal Year, the Department shall assess a penalty against the group home provider, as follows:

(A) The amount of the penalty shall be the difference between the rate paid and the standard rate for RCL 3 for the 1991/92 Fiscal Year for each month of placement for each child who was not certified during the 1991/92 Fiscal Year.

(B) The group home program shall not be reclassified to a lower RCL for failure to have the child certified. (Continued)

.54 Program Audit Findings (Continued)

.55 Corrective action

.551 The Department shall allow the provider to bring a current program, classified at RCL 1 through 12, into compliance with the projected RCL within 60 days of the notice of audit findings or within 30 days of the notice of a self-reported overpayment when the recomputed RCL as determined by a program audit or review of a rate application of the same program, is less than the projected RCL. See Sections 11-402.534(c) and 11-402.632.
(Continued)

.6 Overpayments (Continued)

.62 An overpayment situation shall be created when the actual average RCL falls below the projected average RCL for the same period. An overpayment shall be caused by, but is not limited to, the following:
(Continued)

.626 A group home program classified at RCL 13 or RCL 14 is reclassified in accordance with provisions in Section 11-402.46.

- .627 The group home provider owes a penalty assessed by the Department in accordance with Sections 11-402.183(d) or 11-402.531(c).
- .63 Overpayments shall be determined by: (Continued)
- .634 The Department verifying an actual lower than projected RCL during the rate application process or a program audit/; or
- .635 The Department verifying during the rate application process or a program audit, that a group home program classified at RCL 13 or RCL 14 did not meet all the requirements specified in Sections 11-402.181.
- .64 Overpayment Processing: (Continued)
- .642 The beginning date of an overpayment shall be the earlier of: (Continued)
- (b) The date of first placement at the incorrect RCL for new programs, program changes, or program reinstatements/; or
- (c) For a group home program classified at RCL 13 or RCL 14, the date of occurrence, as specified in Section 11-402.46 or the penalty period as specified in Sections 11-402.183(d) and 11-402.531(c). (Continued)

Authority Cited: Sections 10553, 10554, 11462(j), 11466.1, and 11466.2, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Section 1502.4(b), Health and Safety Code; Sections 4096.5, 4096.5(a), (c), (c)(1), and (2), and (d), 10852, 11460, 11462, 11462(a)(2) and (a)(3), 11462(d), 11462(e)(3), 11462(g)(14), 11462(i)(1)(B), 11462.01(a), (a)(1), (2), and (3), 11462.01(b), 11462.01(d), (d)(1) and (2), 11462.01(e), 11462.01(f)(1), (2), and (3), 11462.01(g)(1), (2), (3), and (4), 11462.01(h), 11462.01(i)(1), (2), and (3), 11462.01(j), 11462.03, 11466.1, 11466.2, 11466.3, 11466.4, 11466.22, 11466.25, 11466.31, 11466.32, 11466.33, 11466.34, 11466.35, 11466.36, 11467, 11468 through 11468.6 and 18350, Welfare and Institutions Code; Assembly Bill 2129, Chapter 1089, Statutes of 1993; Senate Bill 415, Chapter 950, Statutes of 1993/; and The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989.

Amend Section 11-425.12 to read:

11-425 RESPONSIBILITIES OF COUNTY WELFARE DEPARTMENTS

11-425

- .1 The county welfare and probation department's responsibilities shall include, but not be limited to, the following: (Continued)
- .12 Recommending the establishment of a new program by a new or existing provider, or a program change which is either more than one RCL greater than the original RCL determination or a program change to RCL 13 or 14. (See Sections 11-402.41, .42, and .43). The recommendation is to include: (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 11462(g)(2), ~~and~~ 11462(i)(2), and 11462.01(b), Welfare and Institutions Code.

Amend Section 11-430.32 to read:

11-430 AFDC-FOSTER CARE ADMINISTRATIVE REVIEW PROCEDURES (Continued) 11-430

.3 Protest Proceedings (Continued)

.32 A written protest shall be filed with the Department within 60 days from the date of the mailing of the notification of a set rate. The written protest shall include the following:

.324 Full supporting documentation relevant to the resolution of the protest which may include, but is not limited to the following:

(a) The records maintained pursuant to Sections 11-402.521 through .523.

HANDBOOK BEGINS HERE

(1) (Continued)

(2) Case management records, which include but are not limited to:

(A) Treatment plan; psychological evaluations/reports; medical evaluations/releases; mental health professional billings including Medi-Cal billings; education evaluations/information; correspondence; dictation and documentation of services provided; court orders; quarterly reports/program reports; information required by licensing regulations under Title 22; verification from the placement agency required in Section 11-402.411(a)(7); including copies of the certifications and/or assessments specified in Section 11-400a.(2) and Sections 11-402.181(b) and .181(d) for children placed in a group home program classified at RCL 13 or RCL 14; copies of the program certification specified in Section 11-400c.(2) and Section 11-402.181(c) for group home programs classified at RCL 13 or RCL 14; and all RCL significant information pertaining to a client shall be included in the client's record; and mental health professional's daily logs and notes, including information pertaining to day treatment programs, which verify that services were provided to children in placement.
(Continued)

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 11462.01, 11466.4, and 11468, Welfare and Institutions Code.

Reference: Sections 11462.01(b)(2)(A)(i), 11462.01(b)(3), 11466.4, 11466.6, 11468, 11468.1, 11468.2, 11468.3, 11468.4, 11468.5, and 11468.6, Welfare and Institutions Code; Assembly Bill 2129, Chapter 1089, Statutes of 1993, Senate Bill 415, Chapter 950, Statutes of 1993; and Sections 11510, 11512, and 11513, Government Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

(See instructions on reverse)

For use by Secretary of State only

AGENCY CALIFORNIA DEPARTMENT OF SOCIAL SERVICES				AGENCY FILE NUMBER (If any) 0594-11
OAL FILE NUMBERS	NOTICE FILE NUMBER Z95-0221-02	REGULATORY ACTION NUMBER 95-0710-025	EMERGENCY NUMBER	PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1995 JUL 10 AM 11:32
 OFFICE OF ADMINISTRATIVE LAW
 ENDORSED
 APPROVED FOR FILING
 AND PUBLICATION
 AUG 21 1995
 Office of Administrative Law
 REGULATIONS

FILED

in the office of the Secretary of State
of the State of California

AUG 21 1995

At 4:05 O'clock PM.
BILL JONES, Secretary of State

Deputy

NOTICE

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 95-#9-2	PUBLICATION DATE 3-3-95

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) 22	ADOPT
SECTIONS AFFECTED	AMEND Sections 80026, 87227, and 87826
	REPEAL

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify) _____

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) _____

6. CONTACT PERSON Frank R. Vitulli	TELEPHONE NUMBER 657-2586
---------------------------------------	------------------------------

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson
 TYPED NAME AND TITLE OF SIGNATORY
 Eloise Anderson, Director

DATE

July 5, 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

80026 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES

(a) through (b) (Continued)

(1) accept appointment as a guardian or conservator of the person/ ~~of~~
~~estate/ or person~~ and/or estate of any client;

(3) ~~not~~ become the substitute payee for any payments made to any client.

(4) become the joint tenant on any account specified in Section 80026 (i) with a resident.

(d) and (e) (Continued)

(1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the clients.

(g) through (n) (Continued)

Reference: Sections 1501, 1523, 1524, 1531 and 1560, Health and Safety Code; and 20 CFR 416.601.

Amend Section 87227 to read:

87227 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY
AND VALUABLES OF RESIDENTS

87227

(a) through (c) (Continued)

(d) Except as provided in approved continuing care agreements, no licensee or employee of a facility shall:

- (1) accept appointment as a guardian or conservator of the person and/or estate of any resident;
- (2) accept any general or special power of attorney for any such person;
- (3) become substitute payee for any payments made to any persons;

(A) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the resident.

- (4) become the joint tenant on any ~~bank~~ account specified in Section 87227(h) with a resident.

(e) (Continued)

(f) No licensee or employee of a facility shall make expenditures from residents' cash resources for any basic service specified in this Chapter ~~Article 213 of these regulations~~, or for any basic services identified in a contract/admission agreement between the resident and facility.

(1) This requirement does not apply to a licensee who is appointed by the Social Security Administration as representative payee for the resident.

(g) Each licensee shall maintain adequate safeguards and accurate records of cash resources and valuables entrusted to his care, including, but not limited to the following:

(1) and (2) (Continued)

- (3) Bank records for transactions of cash resources deposited in and drawn from the account as specified in (g) below.

(h) through (m) Continued

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.15, 1569.30, 1569.31, 1569.60 and 1569.61, Health and Safety Code; ~~and~~ Section 11006.9, Welfare and Institutions Code; and 20 CFR 416.601.

*relettering of prior
(g) through (h) to
(h) through (m)
per agency
done 8-21-95*

Amend Section 87826 to read:

87826 SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY,
AND VALUABLES

87826

(a) and (b) (Continued)

(c) No licensee or employee of a licensee shall accept appointment as a conservator of the person, or estate, or person and estate of any resident nor accept any general or special power of attorney except for Medi-Cal or Medicare claims for any resident; nor become the substitute payee for any payments made to any resident, except:

(1) a licensee who is appointed by the Social Security Administration may be representative payee for a resident.

(d) through (n) (Continued)

(o) The licensee shall not become joint tenant on any account specified in Section 87826(i) with a resident.

Authority Cited: Section 1568.072, Health and Safety Code.

Reference: Section 1568.072, Health and Safety Code; and 20 CFR 416.601.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

0595-16

OAL FILE
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

95-0823-02 E

For use by Office of Administrative Law (OAL) only

NOTICE

REGULATIONS

1995 AUG 23 AM 11:58

OFFICE OF
ADMINISTRATIVE LAWENDORSED
APPROVED FOR FILING
AND PUBLICATION

SEP - 1 1995

ORIGINAL
For use by Secretary of State only

FILED

In the office of the Secretary of State
of the State of California

SEP 1 1995

At 3:13 O'clock P.M.
BILL JONES, Secretary of StateBy Roberta Cornick
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Trustline Registration for License Exempt Child Care Providers		TITLE(S)		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
<input type="checkbox"/> Other <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT 42-765.3, 44-502(t), 44-506.6, 47-110.6 and .7, 47-145.2 et seq., 47-150.2, 89-705(t)(1) and (2), 89-715.6 et seq., and 89-730.39 and .6 et seq.
SECTIONS AFFECTED	AMEND 40-173.8, 42-710.3, 42-750.3 and .8, 42-762.3, 44-503.134, 44-507.1 and .3, 47-102, 47-140.24, and 89-710.144
REPEAL	

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☒ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Frank R. Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

AUG 22 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 40-173.81 to read:

40-173 COUNTY RESPONSIBILITY FOR NOTIFYING APPLICANTS
AND RECIPIENTS (Continued)

40-173

.8 Notification of Potential Transitional Child Care Program Eligibility

- .81 All recipients shall be notified of their potential eligibility for benefits under the Transitional Child Care program when they become ineligible for AFDC ~~due to~~.

/811 Increased income due to employment/

/812 Loss of the time limited income disregard/

/813 Increased hours of employment/ or

/814 Failure to submit a completed monthly report when it can be proven that the family would also have been discontinued due to increased hours/ increased income or loss of the earned income disregard/ (Continued)

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11500(b), 11502(a) and (b), and 11511(a), Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 250.40(b); 45 CFR 255.1; 45 CFR 256.1(b); ~~and~~ 45 CFR 256.2(b)(1); 45 CFR 256.4(c); and Administration for Children and Families-Action Transmittal-91-1, dated June 16, 1992.

Renumber Section 42-710 and adopt Sections 42-710t.(3) and (4) to read:

42-710 INTRODUCTION TO GAIN (Continued)

42-710

.3 Definitions for terms used in this Chapter

a. Reserved

b. Reserved

~~/r/~~c.(1) "CDSS" (Continued)

~~/d/~~ (2) "Child Care Resources and Referral Agency" (Continued)

~~/b/~~ (3) "Cost Effective" (Continued)

~~/e/~~ (4) "Custodial Parent" (Continued)

~~/d/~~ (5) "CWD" (Continued)

~~/e/~~d.(1) "Deferred Registrant" (Continued)

~~/f/~~e.(1) "Exempt" (Continued)

~~/g/~~f.(1) "Fixed-Unit Price" (Continued)

~~/h/~~g.(1) "GAIN" (Continued)

~~/i/~~ (2) "GAIN Allocation Plan" (Continued)

h. Reserved

~~/j/~~i.(1) "Intermediary Service Provider"

j. Reserved

k. Reserved

l. Reserved

m. Reserved

n. Reserved

o. Reserved

~~/p/~~p.(1) "Participant" (Continued)

~~/q/~~ (2) "Performance-based Contract" (Continued)

~~/r/~~ (3) "Private Industry Council (PIC)" (Continued)

q. Reserved

- ~~r.~~ (1) "Refugee Cash Assistance (RCA) GAIN Participant" (Continued)
- ~~s.~~ (2) "Refugee Resettlement Program (RRP) Services" (Continued)
- ~~t.~~ (3) "Registrant" (Continued)
- ~~u.~~ (4) "Registration" (Continued)
- ~~v.~~ (1) "Service Delivery Area (SDA)" (Continued)
- ~~w.~~ (2) "Supplemental Refugee Services (SRS) GAIN Component" (Continued)
- ~~x.~~ (3) "Subsidized Employment" (Continued)
- ~~y.~~ (1) "Targeted Assistance (TA) Funded Services" (Continued)
- ~~z.~~ (2) "Teen Parent" or "Teenage Parent" (Continued)
- (3) "Trustline Informing Notice" means the form (Child Care Programs [CCP] 2, Rev. 7/95) that explains the Trustline registration system and requirements and is provided to Title IV-A parents who choose a license exempt child care provider.
- (4) "Trustline Registry" means a computer based registry of child care providers who have had a background check to ensure that child care providers have no disqualifying criminal convictions or substantiated reports of child abuse.
- ~~aa.~~ (1) "Unsubsidized Employment" (Continued)
- ~~ab.~~ (2) "UWEX" (Continued)
- ~~ac.~~ (1) "Volunteer" (Continued)
- w. Reserved
- x. Reserved
- y. Reserved
- z. Reserved

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11320, 11320.2, 11320.4, 11320.6, 11320.8, 11321, 11321.2, 11321.4, 11321.6, 11321.8, 11322, 11322.2, 11322.4, 11322.6, 11322.8, 11323, 11323.1, 11323.15, 11323.2, 11323.4, 11323.6, 11323.8, 11324, 11324.2, 11324.4, 11324.6, 11324.8, 11325, 11325.2, 11325.4, 11325.6, 11326, 11326.2, 11326.4, 11326.6, 11326.8, 11327, 11327.2, 11327.4, 11327.5, 11327.6, 11327.8, 11328, 11328.1, 11328.2, 11328.4, 11328.6, 11328.8, 11329, 11329.2, 11329.4, 11329.5, 11331.5(d), and 13280, Welfare and Institutions Code; 45 CFR 250.63(k); 42 U/S/C/ 682(d) (1) (A) (ii) (IV).

Renumber Sections 42-750.334 and .335 to Sections 42-750.337 and .338 and Section 42-750.812 to Section 42-750.814; and adopt Sections 42-750.314 et seq., .315, .315(a), .334, .335, .336, .812 et seq., and .813 to read:

42-750 SUPPORTIVE SERVICES (Continued)

42-750

.3 (Continued)

.31 Child care arrangements provided through GAIN shall meet the following standards: (Continued)

.314 Trustline Registration for License Exempt Child Care Providers

To be eligible for child care payment/reimbursement, all license exempt child care providers shall apply for the Trustline Registry operated jointly by the California Department of Justice and the California Child Care Resource and Referral Network. The following are exempt from this requirement:

- (a) Aunts, uncles and grandparents of the child(ren) in care, by blood, marriage or court decree.
- (b) A public or private school or public recreation program as defined in Health and Safety Code Section 1596.792.
- (c) A child care provider who will be providing temporary child care that is 30 calendar days or less.

HANDBOOK BEGINS HERE

- (1) Child care providers who provide temporary care, of 30 calendar days or less (i.e., GAIN Orientation, Job Club, some on-the-job training assignments), shall not be included on the Trustline Registry.

HANDBOOK ENDS HERE

- (d) Those providers who were providing child care for a Title IV-A family at the time of implementation of the Trustline Registry system shall continue to be exempt until a break-in-service of 30 calendar days or more to the same family is experienced or until child care is provided to a new Title IV-A family.

.315 Trustline Application Requirements

The county shall approve license exempt child care for no more than 30 calendar days from the date a Trustline informing notice is mailed to or given to the assistance unit (AU), pending the receipt of verification from the local child care resource and referral agency that an application for Trustline registry has been filed by the child care provider.

(a) Counties shall provide a Trustline application packet, which includes a Trustline application, a fingerprint card and Trustline informing notice, to the AU within 10 calendar days of notification to the county that the AU has chosen a license exempt child care provider. (Continued)

.33 Child Care Costs. (Continued)

.334 Payment Eligibility Prior to Trustline Registry Notification

The county shall issue child care payments for care provided prior to the date the county receives notification that a Trustline application has been denied or the child care provider's registration status has been revoked.

.335 Revocation of Trustline Registry Eligibility

The county shall discontinue payment when the county is notified by the California Child Care Resource and Referral Network that a license exempt child care provider is denied Trustline registry, had their Trustline case file closed, or had their Trustline registration status revoked. (Continued)

.336 Application/Registration Fees

GAIN funds shall be used to pay application and/or registration fees charged by licensed child care providers, not to exceed the fees charged to private clients for the same service, and providing those fees, after being added to current child care costs, do not exceed regional market rate ceilings as specified in Section 42-750.333.

.3347 (Continued)

.3348 (Continued)

.8 Supportive Services Notice Requirements (Continued)

.81 (Continued)

.811 (Continued)

.812 Trustline Notice Requirements

The county shall issue an appropriate Notice of Action (NOA) to the AU, in accordance with the notice requirements in MPP Section 22-022, to discontinue or deny child care payments within 48 hours after notification by the California Department of Justice or the California Child Care Resource and Referral Network that:

[illegible].3174 (Continued)[illegible]

Adopt Sections 42-762.3t.(2) and (3) to read:

42-762 INTRODUCTION TO THE CAL-LEARN PROGRAM (Continued)

42-762

.3 Definitions for terms used in the Cal-Learn Program (Continued)

t. (1) "Teen parent" (Continued)

(2) "Trustline Informing Notice" means the form (Child Care Programs [CCP] 2, Rev. 7/95) that explains the Trustline registration system and requirements and is provided to Title IV-A parents who choose a license exempt child care provider.

(3) "Trustline Registry" means a computer based registry of child care providers whose backgrounds have been checked to ensure that providers have no disqualifying criminal convictions or substantiated reports of child abuse. (Continued)

Authority Cited: Sections 10553, ~~and~~ 10554, and 11320 et. seq., Welfare and Institutions Code.

Reference: Sections 10852, 10853, 11320, 11331.5(c), 11332, and 11333.7(a), (b) and (c), Welfare and Institutions Code; SB 35, Chapter 69, Statutes of 1993, as amended by SB 1078, Chapter 1252, Statutes of 1993; 45 CFR 250.10(c)/; 45 CFR 250.40(a)/; 45 CFR 255; 45 CFR 282/; 42 USC Section 602; 42 USC Section 1315; ~~and~~ Federal Waiver Terms and Conditions for the California Work Pays Demonstration Project, March 1994; Assembly Bill 2560, (Chapter 1268, Statutes of 1994) and Senate Bill 1984, (Chapter 1267, Statutes of 1994).

Adopt Section 42-765.3 to read:

42-765 SUPPORTIVE SERVICES (Continued)

42-765

.3 In those instances when a teen parent chooses a license exempt child care provider, the Trustline registration requirements in GAIN regulations at Sections 42-750.314 et seq., .315 et seq., .334, .335, .336, and .812 et seq. shall apply.

Authority Cited: Sections 10553, ~~and~~ 10554, and 11320 et. seq., Welfare and Institutions Code.

Reference: Sections 11323.4 and 11331.7(a), Welfare and Institutions Code; 42 USC Section 602; ~~and~~ 45 CFR 255.4(j); AB 2560 (Chapter 1268, Statutes of 1994); and SB 1984, (Chapter 1267 Statutes of 1994).

Adopt Sections 44-502(t)(1) and (2) to read:

44-502 DEFINITIONS (Continued)

44-502

- (t) (1) "Trustline Informing Notice" means the form (Child Care Programs [CCP] 2, Rev. 7/95) that explains the Trustline registration system and requirements and is provided to Title IV-A parents who choose a license exempt child care provider.
- (2) ~~/Reserved/~~"Trustline Registry" means a computer based registry of child care providers whose backgrounds have been checked to ensure that providers have no disqualifying criminal convictions or substantiated reports of child abuse.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.4; and Section 1596.792, Health and Safety Code.

Adopt Sections 44-503.134(a) et seq. to read:

44-503 PROGRAM ELIGIBILITY

44-503

.1 An AU shall be eligible for SCC if all of the following conditions are met:
(Continued)

.13 The child care provider meets all of the following conditions:
(Continued)

.134 Has a day care license or is exempt from licensing.

(a) To be eligible for child care payment/reimbursement, all license exempt child care providers shall apply for the Trustline Registry operated jointly by the California Department of Justice and the California Child Care Resource and Referral Network. The following are exempt from this requirement:

(1) Aunts, uncles and grandparents of the child(ren) in care, by blood, marriage or court decree.

(2) A public or private school or public recreation program as defined in Health and Safety Code Section 1596.792.

(3) A child care provider who will be providing temporary child care that is 30 calendar days or less.

HANDBOOK BEGINS HERE

(A) Child care providers who provide temporary care, of 30 calendar days or less (i.e., GAIN Orientation, Job Club, some on-the-job training assignments), shall not be included on the Trustline Registry.

HANDBOOK ENDS HERE

(4) Those providers who were providing child care for a Title IV-A family at the time of implementation of the Trustline Registry system shall continue to be exempt until a break-in-service of 30 calendar days or more to the same family is experienced or until child care is provided to a new Title IV-A family.

.135 (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.20; and 45 CFR 255.2, .3, .4, and .5.

Adopt Sections 44-504.6 through .62 to read:

44-504 PAYMENT ELIGIBILITY (Continued)

44-504

.6 County Trustline Requirements For Payment and Revocation Procedures

.61 Payment Eligibility Prior to Trustline Registry Notification

The county shall issue child care payments for care provided prior to the date the county receives notification that a Trustline application has been denied or the child care provider's registration status has been revoked.

.62 Revocation of Trustline Registry Eligibility

The county shall discontinue payment when the county is notified by the California Child Care Resource and Referral Network that a license exempt child care provider is denied Trustline registry, had their Trustline case file closed or had their Trustline registration status revoked.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 255.1(c) and (e)(4); 45 CFR 255.2(a)(1); and 45 CFR 255.4(a)(2) and (3), (c)(2) and (i)(1).

Adopt Sections 44-507.16 et seq. and .32 et seq., and .33 to read:

44-507 COUNTY RESPONSIBILITIES

44-507

.1 General (Continued)

.16 Trustline Application Requirements

.161 The county shall approve license exempt child care for no more than 30 calendar days from the date a Trustline informing notice is mailed to or given to the assistance unit (AU), pending the receipt of verification from the local child care resource and referral agency that an application for Trustline registry has been filed by the child care provider.

(a) Counties shall provide a Trustline application packet, which includes a Trustline application, a fingerprint card and Trustline informing notice, to the AU within 10 calendar days of the notification to the county that the AU has chosen a license exempt child care provider.
(Continued)

.3 SCC Notice Requirements (Continued)

.32 The county shall issue an appropriate Notice of Action (NOA) to the AU, in accordance with the notice requirements in MPP Section 22-022, to deny child care payments within 48 hours after notification by the California Department of Justice or the California Child Care Resource and Referral Network that:

.321 A child care provider has been denied Trustline registration.

.322 A child care provider's Trustline case file has been closed.

.323 A child care provider's eligibilty for Trustline registration has been revoked.

.33 The county shall issue a NOA approving the initial child care payment, which limits the initial period of payment to no more than 30 calendar days from the date of the NOA as specified in Section 44-507.16. The NOA shall advise the AU that if the license exempt child care provider fails to submit the application as required in Section 44-503.134, the AU's child care payment for that provider shall be discontinued without any further notice.

Authority Cited: Sections 10553, ~~and~~ 10554, and 11320 et. seq., Welfare and Institutions Code.

Reference: Section 11451.7, Welfare and Institutions Code; 45 CFR 233.28(e); 45 CFR 235.110; 45 CFR 255; 45 CFR 255.1(e); 45 CFR 255.2(a), (g), (g)(2), and (h); 45 CFR 255.4(c)(2), (f)(2), and (h); and 45 CFR 256.4(c); 42 USC Section 602; AB 2560 (Chapter 1268, Statutes of 1994); SB 1984, (Chapter 1267 Statutes of 1994).

Renumber Section 47-102 et seq. and adopt Sections 47-102t.(4) and (5) to read:

47-102 DEFINITIONS (Continued)

47-102

a. Reserved

b. Reserved

c. Reserved

~~(d)~~d.(1) "Date of Receipt" (Continued)

~~(e)~~e.(1) "Eligibility Period" (Continued)

~~(f)~~f.(1) "Family Fee" (Continued)

g. Reserved

h. Reserved

i. Reserved

j. Reserved

k. Reserved

l. Reserved

m. Reserved

n. Reserved

o. Reserved

~~(p)~~p. "Payment Plan" (Continued)

q. Reserved

~~(r)~~r.(1) "Regional Market Rate" (Continued)

~~(s)~~s.(2) "Rate Ceiling" (Continued)

s. Reserved

~~(t)~~t.(1) "TCC" (Continued)

~~(u)~~u.(2) "TCC Child" (Continued)

~~(v)~~v.(3) "TCC Family" (Continued)

(4) "Trustline Informing Notice" means the form (Child Care Programs [CCP] 2, Rev. 7/95) that explains the Trustline registration system and requirements and is provided to Title IV-A parents who choose a license exempt child care provider.

(5) "Trustline Registry" means a computer based registry of child care providers whose backgrounds have been checked to ensure that providers have no disqualifying criminal convictions or substantiated reports of child abuse.

u. Reserved

v. Reserved

w. Reserved

x. Reserved

y. Reserved

z. Reserved

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, and 11511(a), Welfare and Institutions Code; and 45 CFR Parts 255 and 256.

Adopt Sections 47-110.6 et seq. and .7 et seq. to read:

47-110 COUNTY RESPONSIBILITIES (Continued)

47-110

.6 Trustline Application Requirements

.61 The county shall approve license exempt child care for no more than 30 calendar days from the date a Trustline informing notice is mailed to or given to the applicant/TCC family, pending the receipt of verification from the local child care resource and referral agency that an application for Trustline registry has been filed by the child care provider.

.611 Counties shall provide a Trustline application packet, which includes a Trustline application, a fingerprint card and Trustline informing notice, to the TCC family within 10 calendar days of the notification to the county that the TCC family has chosen a license exempt child care provider.

.7 Notice Requirements For Trustline

.71 The county shall issue an appropriate Notice of Action (NOA) to the TCC family, in accordance with the notice requirements in MPP Section 22-022, to deny child care payments within 48 hours after notification by the California Department of Justice or the California Child Care Resource and Referral Network that:

.711 A child care provider has been denied Trustline registration.

.712 A child care provider's Trustline case file has been closed.

.713 A child care provider's eligibilty for Trustline registration has been revoked.

.72 The county shall issue a NOA approving the initial child care payment, which limits the initial period of payment to no more than 30 calendar days from the date of the NOA as specified in Section 47-110.6. The NOA shall advise the TCC family that if the license exempt child care provider fails to submit the application as required in Section 47-145.2, the TCC family's child care payment for that provider shall be discontinued without any further notice.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11320.3, 11500(b), (c), and (d), 11501(a) and (b), 11503, 11504, and 11511(a), Welfare and Institutions Code; 45 CFR 250.20; 45 CFR 255.1; 45 CFR 255.3(a)(3); 45 CFR 255.4(i)(1) and (2); and 45 CFR 256.1, .2, and .4.

Adopt Section 47-140.243 to read:

47-140 ELIGIBLE PROVIDERS (Continued)

47-140

.2 (Continued)

.24 Has a day care license or is exempt from licensing. (Continued)

.243 If the child care provider is license exempt, the provider must apply for Trustline registration as required in Section 47-145.2.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11320.3(h)(2), 11501(a), 11509, and 11511(a), Welfare and Institutions Code; 45 CFR 255.3(c); 45 CFR 255.4(c)(2) and (f)(2); 45 CFR 255.5(a) and (b); and 45 CFR 256.4(a) and (b).

Adopt Sections 47-145.2 through .221 to read:

47-145 PAYMENT ELIGIBILITY (Continued)

47-145

.2 Trustline Registration for License Exempt Child Care Providers

.21 To be eligible for child care payment/reimbursement all license exempt child care providers shall apply for the Trustline Registry operated jointly by the California Department of Justice and the California Child Care Resource and Referral Network. The following are exempt from this requirement:

.211 Aunts, uncles and grandparents of the child(ren) in care, by blood, marriage or court decree.

.212 A public or private school or public recreation program as defined in Health and Safety Code Section 1596.792.

.213 A child care provider who will be providing temporary child care that is 30 calendar days or less.

HANDBOOK BEGINS HERE

(a) Child care providers who provide temporary care, of 30 calendar days or less (i.e., GAIN Orientation, Job Club, some on-the-job training assignments), shall not be included on the Trustline Registry.

HANDBOOK ENDS HERE

.214 Those providers who were providing child care for a Title IV-A family at the time of implementation of the Trustline Registry system shall continue to be exempt until a break-in-service of 30 calendar days or more to the same family is experienced or until child care is provided to a new Title IV-A family.

.22 Payment Eligibility Prior to Trustline Registry Notification

.221 The county shall issue child care payments for care provided prior to the date the county receives notification that a Trustline application has been denied or the child care provider's registration status has been revoked.

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 10613, 11209, 11320.3(h)(5), 11501(a) and (c), 11508(a), and 11511(a), Welfare and Institutions Code; 45 CFR 255.1(e)(4); and 45 CFR 256.1(b).

Adopt Sections 47-150.2 et seq. to read:

47-150 PAYMENT INELIGIBILITY (Continued)

47-150

.2 Revocation

.21 Revocation of Trustline Registry Eligibility

.211 The county shall discontinue payment when the county is notified by the California Child Care Resource and Referral Network that a license exempt child care provider is denied Trustline registry, had their Trustline case file closed or had their Trustline registration status revoked.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 11209, 11501(a), 11506(a) and (c), and 11511(a), Welfare and Institutions Code; 45 CFR 256.3(e); and 45 CFR 256.4(d).

Adopt Sections 89-705(t)(1) and (2) to read:

89-705 DEFINITIONS (Continued)

89-705

(t) ~~Reserved~~

- (1) "Trustline Informing Notice" means the form (Child Care Programs [CCP] 2, Rev. 7/95) that explains the Trustline registration system and requirements and is provided to Title IV-A parents who choose a license exempt child care provider.
- (2) "Trustline Registry" means a computer based registry of child care providers whose backgrounds have been checked to ensure that providers have no disqualifying criminal convictions or substantiated reports of child abuse. (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 11280, Welfare and Institutions Code.

Amend Section 89-710.144 to read:

89-710 PROGRAM ELIGIBILITY (Continued)

89-710

- .1 An AU shall be eligible to participate in CAAP if otherwise eligible for AFDC and all of the following conditions are met: (Continued)
- .14 The child care provider meets all the following conditions: (Continued)
 - .144 Has a child day care license or is exempt from licensing.
 - (a) If exempt from licensing, the child care provider must apply for Trustline registration as required in Section 89-715.6.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11265.1, 11280(b), and 11320.3(j)(5), Welfare and Institutions Code; 45 CFR 255.2(a) and (a)(1); 45 CFR 255.4(c)(2) and (f)(2); and 45 CFR 255.5(a).

Adopt Sections 89-715.6 through .631 to read:

89-715 PAYMENT ELIGIBILITY (Continued)

89-715

.6 Trustline Registration for License Exempt Child Care Providers

.61 To be eligible for child care payment/reimbursement, all license exempt child care providers shall apply for the Trustline Registry operated jointly by the California Department of Justice and the California Child Care Resource and Referral Network. The following are exempt from this requirement:

.611 Aunts, uncles and grandparents of the child(ren) in care, by blood, marriage or court decree.

.612 A public or private school or public recreation program as defined in Health and Safety Code Section 1596.792.

.613 A child care provider who will be providing temporary child care that is 30 calendar days or less.

HANDBOOK BEGINS HERE

(a) Child care providers who provide temporary care, of 30 calendar days or less (i.e., GAIN Orientation, Job Club, some on-the-job training assignments), shall not be included on the Trustline Registry.

HANDBOOK ENDS HERE

.614 Those providers who were providing child care for a Title IV-A family at the time of implementation of the Trustline Registry system shall continue to be exempt until a break-in-service of 30 calendar days or more to the same family is experienced or until child care is provided to a new Title IV-A family.

.62 Payment Eligibility Prior to Trustline Registry Notification

.621 The county shall issue child care payments for care provided prior to the date the county receives notification that a Trustline application has been denied or the child care provider's registration status has been revoked.

.63 Revocation of Trustline Registry Eligibility

.631 The county shall discontinue payment when the county is notified by the California Child Care Resource and Referral Network that a license exempt child care provider is denied Trustline registry, had their Trustline case file closed, or had their Trustline registration status revoked.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 11280 and 11508(b), Welfare and Institutions Code; 45 CFR 255.1, (c), and (e)(4); 45 CFR 255.2, (a), (a)(1), and (h)(2); and 45 CFR 255.4(a), (a)(2)(ii), (c)(2), and (i)(1).

Renumber Sections 89-730.6 and .61 to Sections 89-730.7 and .71, respectively and adopt Sections 89-730.39 through .391(a) and Sections 89-730.6 et seq. to read:

89-730 COUNTY RESPONSIBILITIES (Continued)

89-730

.3 General (Continued)

.39 Trustline Application Requirements

.391 The county shall approve license exempt child care for no more than 30 calendar days from the date a Trustline informing notice is mailed to or given to the applicant/assistance unit (AU), pending the receipt of verification from the local child care resource and referral agency that an application for Trustline registry has been filed by the child care provider.

(a) Counties shall provide a Trustline application packet, which includes a Trustline application, a fingerprint card and Trustline informing notice, to the AU within 10 calendar days of the notification to the county that the AU has chosen a license exempt child care provider.
(Continued)

.6 Trustline Notice Requirements

.61 The county shall issue an appropriate Notice of Action (NOA) to the AU, in accordance with the notice requirements in MPP Section 22-022, to deny child care payments within 48 hours after notification by the California Department of Justice or the California Child Care Resource and Referral Network that:

.611 A child care provider has been denied Trustline registration.

.612 A child care provider's Trustline case file has been closed.

.613 A child care provider's eligibilty for Trustline registration has been revoked.

.62 The county shall issue a NOA approving the initial child care payment, which limits the initial period of payment to no more than 30 calendar days from the date of the NOA as specified in Section 89-730.39. The NOA shall advise the AU that if the license exempt child care provider fails to submit the application as required in Section 89-715.6, the AU's child care payment for that provider shall be discontinued without further notice.

.67 Inter-County Transfers (Continued)

.671 (Continued)

Authority Cited: Sections 10553, ~~and~~ 10554, and 11320 et. seq., Welfare and Institutions Code.

Reference: Sections 11280(b) and (c), Welfare and Institutions Code; 45 CFR 233.22, .24, .25, .29(b) and (c), .34(b) and (c)(3), .35, and .36; 45 CFR 255; 45 CFR 255.1(c), (e), and (e)(4); 45 CFR 255.2(a), (g)(1), (g)(2), (h), (h)(1), and (h)(2); 45 CFR 255.3(b), (c), and (h); ~~and~~ 45 CFR 255.4(a) and (a)(2)(iii), (c)(2), (f)(2), and (h); 42 U.S.C. Section 602; AB 2560 (Chapter 1268, Statutes of 1994); and SB 1984, (Chapter 1267 Statutes of 1994).

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91)

CERT

See instructions on
reverse)Original
For use by Secretary of State only

AGENCY

State Department of Social Services

AGENCY FILE NUMBER (if any)

0894-28

OAL FILE
NUMBERSNOTICE FILE NUMBER
Z-95-0221-02

REGULATORY ACTION NUMBER

95-0801-02C

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

95-0320-02E

For use by Office of Administrative Law (OAL) only

ENDORSED
APPROVED FOR FILING
AND PUBLICATION

SEP 11 1995

Office of Administrative Law

NOTICE

REGULATIONS

FILED

In the office of the Secretary of State
of the State of California

SEP 11 1995

3:13 O'clock P.M.

JAMES, Secretary of State
By Robert L. Cornick

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Revised Income and Resource Exclusions in the Food Stamp Program		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 95-#9-2	PUBLICATION DATE 3-3-95	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND Sections 63-501.111; 63-502.1, .2, and .3; 63-506(b)(5); and 63-507(a)(4), (5), and (17).
	REPEAL Section 63-507(a)(16)(B)1.

2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

June 30, 1995 through July 17, 1995.

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal
☐ Other (Specify)

6. CONTACT PERSON

Frank R. Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

7-31-95

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Adopt Section 63-029 to read:

63-029 IMPLEMENTATION OF REVISED RESOURCE AND INCOME
EXCLUSION PROVISIONS

63-029

- .1 The amended and adopted provisions of Sections 63-501.3(b), (j) and (k); Section 63-502.2(1); Section 63-506; and Sections 63-507(a)(1) through (a)(4) and (a)(6) through (17) shall become effective April 3, 1995 for new food stamp applications and continuing cases.
- .2 The amended and adopted provisions of Sections 63-507(a)(5) and (a)(18) shall become effective April 3, 1995 and shall be implemented as follows:
 - .21 Beginning April 3, 1995, CWDs shall implement these provisions for all new food stamp applications.
 - .22 For continuing cases and any households entitled to restored benefits, these provisions shall be implemented and benefits restored to the date of application or August 1, 1994, whichever is later when any one of the following first occurs:
 - .221 Upon request of the household;
 - .222 At recertification;
 - .223 When the case is next reviewed; or
 - .224 When the CWD becomes aware that a review is needed.
 - .23 A household that applied for benefits from August 1, 1994, through March 31, 1995, and was denied due to excess income because of receipt of energy assistance reimbursements, payments, or allowances from the federal Department of Housing and Urban Development and/or the federal Farmers Home Administration is entitled to benefits restored to the date of application or August 1, 1994, whichever is later, if:
 - .231 The household is otherwise entitled to benefits; and,
 - .232 The household requests a review of its case or the CWD becomes aware that a review is needed.
 - .24 A household that applied for benefits from August 1, 1994 through March 31, 1995, and was denied due to excess income and resources because of receipt of payments made to victims of Nazi persecution, is entitled to benefits restored to the date of application or August 1, 1994 whichever is later, if:
 - .241 The household is otherwise entitled to benefits; and
 - .242 The household requests a review of its case or the CWD becomes aware that a review is needed.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 18902 and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.8(e)(11) and 273.9(c)(10); and United States Department of Agriculture (U.S.D.A.), Food and Nutrition Service (FNS), Administrative Notice (AN) 94-41, dated April 19, 1994; U.S.D.A., FNS, ANs 94-58 and 94-59, dated July 5, 1994; and U.S.D.A., FNS, AN 94-72, dated September 15, 1994.

Renumber Section 63-501.3(k)(13) to Section 63-501.3(p) and amend Sections 63-501.111 and .3(b), (j), (k), and (p) to read:

63-501 RESOURCE DETERMINATIONS (Continued)

63-501

.1 Definition of Resources (Continued)

.11 (Continued)

- .111 A nonrecurring lump sum payment includes, but is not limited to, income tax refunds, rebates or credits; retroactive lump-sum social security, railroad retirement benefits, or other payments; retroactive payments from the approval of an application for any assistance program; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, unless specifically excluded from consideration as a resource by other Federal law as specified in Section 63-501.3(l), Section 63-506, or Section 63-507 ~~or unless excluded as specified in Section 63-501.3(p).~~
(Continued)

.3 Exclusions From Resources

In determining the resources of a household, only the following shall be excluded:

- (a) (Continued)
- (b) Households goods, personal effects, including one burial plot per household member, the cash value of life insurance policies, the cash value of pension plans or funds, and Keogh plans which involve a contractual relationship with individuals who are not household members.
- (c) through (i) (Continued)
- (j) Resources and/or income of Native Americans and Alaska Natives as specified in Section 63-506.
- (k) Resources and/or income that are specifically excluded for food stamp purposes by any other federal statute as specified in Section 63-507.
- (l) through (o) (Continued)
- (p) Property, real or personal, to the extent that it is directly related to the maintenance or use of a vehicle excluded under Sections 63-501.521(a), (b) or (f). Only that portion of real property determined necessary for maintenance or use is excludable under this provision.

HANDBOOK BEGINS HERE

- (1) For example, a household which owns a produce truck to earn its livelihood may be prohibited from parking the truck in a residential area. The household may own a 100-acre field and use a quarteracre of the field to park and/or service the truck. Only the value of the quarteracre would be excludable under this provision, not the entire 100-acre field.

HANDBOOK ENDS HERE

Authority cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 272.8(e)(17); 7 CFR 273.2(j)(4); and 7 CFR 273.8(e)(11) and (h); Public Law (P.L.) 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 101-201; P.L. 101-426, Section 6(h)(2), as specified in United States Department of Agriculture (U.S.D.A.), Food and Nutrition Service (FNS), Administrative Notice (AN) 91-37; P.L. 101-508, Section 11111(b); P.L. 101-624, Section 1715; P.L. 102-237, Section 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992; Section 2466d., Title 20, United States Code (U.S.C.); 7 U.S.C. 2014(d); 26 U.S.C. 32(j)(5); 42 U.S.C.A. 5122 as amended by P.L. 100-707, Section 105(i); U.S.D.A., FNS, AN 91-30; Index Policy Memo 90-22, dated July 12, 1990; and U.S.D.A., FNS, AN 94-58, dated July 5, 1994.

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS

63-502

1. Income Definition (Continued)

13. Earned income shall include: (Continued)

.135 Earnings of individuals who are participating in on-the-job training programs under the Job Training Partnership Act (JTPA) of 1982 (JTPA) or which are provided by title I of the National and Community Services Act (NCSA) of 1990, shall include the following: (a) The NCSA includes programs under the Serve America, American Conservation and Youth Corps, and National and Community Service subtitles.

2. Income Exclusions. Only the following items shall be excluded from household income: (Continued)

(b) Vendor payments. Money that is not legally obligated to be paid to the household, but which is paid to a third party for a household expense by a person or organization outside of the household. (Continued)

(2) An AFDC, GA/GR, RCA, or ECA payment shall be considered an excludable vendor payment and not counted as income to the household if that payment is for: (Continued)

(c) Energy assistance [as defined in Section 63-507(a)(5)] or a GA payment made to a third party on behalf of a household for energy or utility cost assistance; (Continued)

(e) Educational assistance not otherwise excluded by federal statute as specified in Section 63-507(a)(6), to the extent that it is earmarked by the lender, used for, or intended to be used for, allowable educational expenses at qualifying institutions as specified in Section 63-502.2(e)(3). (Continued)

(g) (Continued)

(1) Excludable reimbursements which are not considered to be a gain or benefit to the household include, but are not limited to the following: (Continued)

(I) Reimbursements for child care made under the Family Support Act of 1988, including reimbursements for GAIN child care and transitional child care (TCC); the At-Risk Block Grant (ARRS); and, the Child Care and Development Block Grant. (Continued)

(j) Money received in the form of a nonrecurring lump-sum payment, including, but not limited to, income tax refunds, rebates, or credits; retroactive lump-sum social security, railroad retirement benefits, or other payments; retroactive payments from the approval of an application for any assistance program; AFDC homeless assistance payments for temporary shelter or permanent housing [see Section 63-102(h)]; court ordered retroactive payments for any assistance program; supplemental or corrective payments received for a previous month from any assistance program; lump-sum insurance settlements; or refunds of security deposits on rental property or utilities. These payments shall be counted as resources in the month received, in accordance with Section 63-501.111 unless specifically excluded from consideration as a resource by other federal laws as specified in Section 63-501.3 (1), Section 63-506 or Section 63-507 ~~or unless excluded as specified in Section 63-507(a)(3)(D).~~ (Continued)

(1) Income that is specifically excluded for Food Stamp purposes by any other federal statute as specified in Section 63-507. (Continued)

.3 Income Deductions (Continued)

.35 Excess Shelter Deduction (Continued)

.352 Shelter costs shall include only the following: (Continued)

(d) The cost of heating and cooking fuel; cooling and electricity; water and sewerage; garbage and trash collection fees; the basic service and rental fee for one telephone, including tax on the basic fee; and fees charged by the utility provider for initial installation of the utility. One-time deposits shall not be included as shelter costs.

11) For purposes of this section, the full amount of excluded energy assistance payments or allowances, as specified in Section 63-507(a)(3)(D), shall be deemed to have been expended for heating or cooling costs.
(Continued)

Authority cited: Sections 10553, 10554, 11209 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 99-198, Section 1509(b); P.L. 101-201; P.L. 101-624; P.L. 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 102-237, P.L. 102-325; 7 Code of Federal Regulations (CFR) 271.2; 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1) and (c), 7 CFR 273.9(c)(1) and (i), (iii), (iv), and (iv)(B), and (c)(3); 7 CFR 273.9(c)(5); 7 CFR 273.9(c)(5)(i)(A); 7 CFR 273.9(c)(5)(i)(C), (F) and (G) and (ii)(A); 7 CFR 273.9(c)(10); 7 CFR 273.9(c)(15); 7 CFR 273.9(d)(3)(vii); 7 CFR 273.9(d)(1) through (6); 7 CFR

273.11(d)(1), (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal Feb. 1, 1990) _____ F. Supp. _____ [Dock. No. CV-89-0768]); 7 CFR 273.21(j)(1)(vii)(A); P.L. 101-508, Section 11111(b); 7 United States Code (U.S.C.) Sections 2014(d) and (d)(3)(B); 7 U.S.C. Section 2015(e); 20 U.S.C. Section 1087 uu.; 20 U.S.C. Section 2466d.; 26 U.S.C. Section 32(j)(5); United States Department of Agriculture (U.S.D.A.), Food and Nutrition Service (FNS), Western Region, Administrative Notice (AN) 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A., FNS, Western Region, AN 91-24, dated January 24, 1991; and U.S.D.A., FNS, AN 91-30; Waiver Letter WFS-100: FS-10-6-CA, dated October 2, 1990, U.S.D.A., FNS; Federal Register, Volume 51, No. 163 (pgs. 30046 and 30047); Food Stamp Question and Answer Distribution System, #502.2-7; U.S.D.A., FNS, Western Region, ANs 92-12 and 92-41 with Policy Memo 3-92-06; and U.S.D.A., FNS, AN 94-41, dated April 19, 1994.

Adopt Title for Section 63-506; adopt Sections 63-506(b) and (b)(7) through (b)(16); include Handbook Section 63-506(b)(2)(A) et seq.; and renumber Section 63-506 from Sections 63-501.3(j), (k)(1) and (2), and (k)(8) through (11), nonconsecutive, and amend to read:

63-506 EXCLUDED RESOURCES AND/OR INCOME OF NATIVE AMERICANS
OR ALASKA NATIVES

63-506

- (a) Indian lands held jointly with the Tribe, or land that can be sold only with the approval of the Department of Interior's Bureau of Indian Affairs.
- (b) Funds or assets of, or payments to Native American tribal members or Alaska Natives shall be excluded as resources and/or income for Food Stamp purposes if specifically excluded by any other federal law. These exclusions include, but are not limited to:
 - (1) Payments received under the Alaska Native Claims Settlement Act (Public Law [P.L.] 92-203, Section 29 and P.L.100-24, Section 15 or the Sac and Fox Indian claims agreement (P.L. 94-189, Section 6);
 - (2) Payments received by certain Indian tribal members under P.L. 94-114, Section 6, regarding submarginal land held in trust by the United States;

HANDBOOK BEGINS HERE

- (A) The following tribes may benefit from the provisions of Section 63-506(b)(2):

1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin;
2. Blackfeet Tribe;
3. Cherokee Nation of Oklahoma;
4. Cheyenne River Sioux Tribe;
5. Crow Creek Sioux Tribe;
6. Lower Brule Sioux Tribe;
7. Devils Lake Sioux Tribe;
8. Fort Belknap Indian Community;
9. Assiniboine and Sioux Tribes;

10. Lac Corte Oreilles Band of Lake Superior Chippewa Indians;
11. Keweenaw Bay Indian Community;
12. Minnesota Chippewa Tribe;
13. Navajo Tribe;
14. Oglala Sioux Tribe;
15. Rosebud Sioux Tribe;
16. Shoshone-Bannock Tribe; and the
17. Standing Rock Sioux Tribe.

HANDBOOK ENDS HERE

- (3) Payments received from the disposition of funds to the Grand River Band of Ottawa Indians (P.L. 94-540).
- (4) Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission (P.L. 95-433, Section 2).
- (5) Payments made to the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet, or any Indian household or member thereof, pursuant to the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420, Section 9(c)).
- (6) Payments of relocation assistance to members of the Navajo and Hopi Tribes (P.L. 93-531, Section 22).
- (7) Funds that meet any of the criteria specified in Section 63-506(b) (7) (A):
 - (A) Funds appropriated to satisfy judgements of the Indian Claims Commission or Claims Court (P.L. 93-134, P.L. 97-458 and P.L. 98-64) which:
 1. Are distributed per capita, not exceeding \$2,000, or held in trust according to an approved plan.
 2. As of January 12, 1983, were to be distributed per capita, up to \$2,000, or held in trust according to a plan approved by Congress prior to January 12, 1983.

3. Were distributed according to a plan approved by Congress after December 31, 1981, but prior to January 12, 1983, and any purchases made with such funds; or
 4. Are per capita payments, not exceeding \$2,000, from funds which are held in trust by the Secretary of the Interior (trust fund distribution).
- (B) For purposes of this section, the \$2,000 limit on per capita shares applies to each payment made to each household member.
 - (C) Purchases made with payments distributed between January 1, 1982 and January 12, 1983 shall be excluded from resources to the extent excluded funds were used to make such purchases.
- (8) Interests of individual Indians in trust or restricted lands shall be excluded as resources only; and any income from such interests, up to \$2,000 per calendar year per individual shall be excluded as income only (P.L. 93-134, P.L. 97-458, and P.L. 103-66, Section 13736).
 - (A) For purposes of this section, interests include the individual's right to, or legal share of, the trust or restricted land and any resulting income.
 - (B) For purposes of this section, the exclusion applies to each individual household member who holds an interest or legal share.
 - (9) Assistance received under the Indian Child Welfare Act child and family service grant programs on or near reservations (P.L. 95-608). These programs include, but are not limited to: family assistance, day care, after school care, respite care, recreational activities, home improvement, employment of domestic relations and child welfare personnel, and education and training.
 - (10) Payments made to the following: Turtle Mountain Band of Chippewas, Arizona (P.L. 97-403); Blackfeet, Grosventre, Assiniboine tribes, Montana, and the Papago Tribe, Arizona (P.L. 97-408); Red Lake Band of Chippewa Indians (P.L. 98-123, Section 3); White Earth Band of Chippewa Indians, Minnesota, pursuant to the White Earth Reservation Land Settlement Act of 1985 (P.L. 99-264, Section 16); and Saginaw Chippewa Indian Tribe of Michigan (P.L. 99-346, Section 6(b)(2)).
 - (11) Per capita and interest payments made to members of the Assiniboine Tribe of the Fort Belknap Indian Community and the Fort Peck Indian Reservation, Montana (P.L. 98-124, Section 5).
 - (12) Funds paid to heirs of deceased Native Americans under the Old Age Assistance Claims Settlement Act, except for per capita shares exceeding \$2,000 (P.L. 98-500, Section 8).

- (13) Funds distributed per capita or held in trust for the Chippewas of Lake Superior and the Chippewas of the Mississippi (P.L. 99-146, Section 6(b) and P.L. 99-377).
- (14) Funds, assets or income from the trust fund established pursuant to the Puyallup Tribe of Indians Settlement Act of 1989 (P.L. 101-41, Sections 10 (b) and (c)).
- (15) Payments made to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida to satisfy the judgements of the Indians Claims Commission, except for per capita payments exceeding \$2,000 (P.L. 101-277).
- (16) Payments, funds, distributions or income under the Seneca Nation Settlement Act of 1990 (P.L. 101-503, Section 8(b)).

Authority Cited: Sections 10553, 10554, 11209, and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.8(e)(10) and (e)(11); 7 CFR 273.9(c)(10); Public Law (P.L.) 92-203, Section 29; P.L. 93-134; P.L. 93-531, Section 22; P.L. 94-114, Section 6; P.L. 94-189, Section 6; P.L. 94-540; P.L. 95-433, Section 2; P.L. 95-608; P.L. 96-420, Section 9(c); P.L. 97-403; P.L. 97-408; P.L. 97-458; P.L. 98-64; P.L. 98-123, Section 3; P.L. 98-124, Section 5; P.L. 98-500, Section 8; P.L. 99-146, Section 6(b); P.L. 99-264, Section 16; P.L. 99-346, Section 6(b)(2); P.L. 99-377; P.L. 100-241, Section 15; P.L. 101-41, Sections 10(b) and (c); P.L. 101-277; P.L. 101-503, Section 8(b); P.L. 103-66, Section 13736; and United States Department of Agriculture (U.S.D.A.), Food and Nutrition Service (FNS), Administrative Notice (AN) 94-41, dated April 19, 1994.

Adopt Title for Section 63-507; adopt Sections 63-507(a), (a)(1)(B) through (G), (a)(12), and (a)(16) through (18); include Handbook Section 63-507(a)(15)(A) et seq.; and renumber Section 63-507 from Sections 63-501.3(k)(3) through (7), (k)(12), (k)(14) through (18), and Sections 63-502.2(1)(1), (2), (3), and (5), nonconsecutive, and amend to read:

63-507 RESOURCES AND/OR INCOME EXCLUDED BY OTHER FEDERAL LAWS

63-507

(a) Resources and/or income shall be excluded if specifically excluded for Food Stamp purposes by any other federal law, including, but not limited to:

(1) Benefits received by children from the following programs:

(A) Special Supplemental Food Program for Women, Infants and Children (WIC) (P.L. 89-642, Section 11(b));

(B) Special Milk Program (P.L. 89-642, Section 11(b));

(C) School Breakfast Program (P.L. 89-642, Section 11(b));

(D) School Lunch Program (P.L. 94-105, Section 9(d));

(E) Summer Food Service Program for Children (P.L. 94-105, Section 9(d));

(F) Commodity Distribution Program (P.L. 94-105, Section 9(d));

(G) Child and Adult Care Food Program (P.L. 94-105, Section 9(d)).

(2) Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. 91-646, Section 216);

(3) Earned income tax credits received before January 1, 1980, as a result of P.L. 95-600 the Revenue Act of 1978.

(4) Allowances, earnings and payments to individuals in programs specified under the Job Training Partnership Act of 1982 (P.L. 97-300) shall be excluded ~~as income only~~, except that earnings of individuals participating in on-the-job training programs shall not be excluded as either resources or income (P.L. 97-300, Section 142(b) and P.L. 99-198).

(A) However, earnings of dependent household members under 19 years of age who are participating in on-the-job training under JTPA shall be excluded.

1. For purposes of this provision, dependent means a child under 19 years of age who is under the parental control of an adult household member.
- (5) Payments or allowances ~~authorized made~~ under any federal, state or local laws for the purpose of energy assistance, ~~if payments or allowances made by such as~~ the Low Income Home Energy Assistance Program (LIHEAP) (P.L. 99-475) Section 4(e)(1) Act (LIHEAA), or from Housing and Urban Development (HUD) or the Farmers Home Administration (FmHA) ~~shall be excluded as income only programs. These payments or allowances shall under state or local laws must be clearly identified as energy assistance by the legislative body authorizing the program or providing the funds. The full amount of such payments or allowances shall be deemed to have been expended for heating or cooling costs in determining any excess shelter deduction as specified in Section 37502.15.~~
- (6) Financial educational assistance provided under any of the following:
 - (A) A program funded in whole or in part under Title IV of the Higher Education Act (P.L. 102-325);
 - (B) Bureau of Indian Affairs student assistance programs (P.L. 102-325);
 - (C) Title XIII, Indian Higher Education Programs, Tribal Development Student Assistance Revolving Loan Program (Tribal Development Student Assistance Act);
 - (D) To the extent specified in Section 63-502.2(e), the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2301-2466d.).
- (7) Payments received as restitution pursuant to the Civil Liberties Act of 1988, by U.S. citizens of Japanese ancestry and permanent resident Japanese aliens who were interned during World War II or their survivors; and payments received by Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island pursuant to the Aleutian and Pribilof Islands Restitution Act, for injustices suffered while under United States control during World War II (P.L. 100-383, Section 105(f)(2)).
- (8) Payments received from the Agent Orange Settlement Fund or any other fund established to settle liability claims by veterans or survivors of deceased veterans concerning Agent Orange under the Agent Orange Compensation Act of 1989 (P.L. 101-201 and P.L. 101-329, Section 10405).
- (9) Earned Income Tax Credit (EITC) payments received by any household member as an advance payment or in the form of a lump sum. These payments shall be excluded for 12 months, provided the household was participating in the Food Stamp Program at the time of receipt of the EITC and provided the household participates continuously during that 12-month period (P.L. 103-66).

- (A) Continuous participation includes breaks in participation of one month or less due to administrative reasons, such as delayed recertifications or missing or late CA 7s.
 - (B) If the pay stub does not indicate an EITC advance payment was received, no further action is required.
 - (C) If it is unclear from the pay stub what amount of EITC advance payment the recipient received, the CWD shall obtain clarification from the recipient and contact the employer if necessary to obtain the amount.
- (10) Federal major disaster and emergency assistance provided to individuals and families under the Disaster Relief Act of 1974 (as amended by P.L. 100-707, Section 105(i)), and comparable disaster assistance provided by states, local governments, and disaster assistance organizations as a result of a major disaster.
 - (11) Payments received from the Radiation Exposure Compensation Trust Fund by an individual for certain diseases attributed to radiation exposure pursuant to the Radiation Exposure Compensation Act of 1990 (P.L. 101-426, Section 6(h)(2)).
 - (12) Any amount by which the basic pay of an individual is reduced under the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (P.L. 99-576, Section 303(a)(1)).
 - (13) Any payment to volunteers under Title II of the Domestic Volunteer Services Act, including but not limited to the Retired Senior Volunteer Program (RSVP), Foster Grandparents Program and Senior Companion Program shall be excluded as income only (P.L. 93-113, as amended).
 - (14) Any payments under Title I of the Domestic Volunteer Services Act, including but not limited to VISTA, University Year for Action and Urban Crime Prevention Program to volunteers who were receiving food stamps or public assistance at the time they joined the Title I program shall be excluded as income only. In addition, those individuals who were receiving an income exclusion for a VISTA or other Title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977 shall continue to receive the income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in Food Stamp Program participation shall not affect the exclusion once eligibility has been determined (P.L. 93-113, as amended).
 - (15) Funds received by individuals age 55 and over provided by the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act shall be excluded as income only (as amended by P.L. 100-175, Section 166).

HANDBOOK BEGINS HERE

(A) The following organizations receive Title V funds under the Older Americans Act:

1. Green Thumb
2. National Council on Aging
3. National Council of Senior Citizens
4. American Association of Retired Persons (AARP)
5. U.S. Forest Service
6. National Association for Spanish-Speaking Elderly
7. National Urban League
8. National Council on Black Aging

HANDBOOK ENDS HERE

(16) The value of any child care provided or arranged for, or child care payments made under the programs specified in Sections 63-507(a)(16)(A) through (a)(16)(C) shall be excluded as income only.

(A) Title IV-A of the Social Security Act, including transitional child care (P.L. 100-485, Section 301).

(B) The At-Risk Block Grant (P.L. 101-508, Section 5801).

1/ No deduction, as specified in Section 63-507(b), shall be allowed for any expense covered by At-Risk Block Grant payments.

(C) The Child Care and Development Block Grant (P.L. 102-586, Section 8).

(17) Allowances, earnings, and payments made under Title I of the National and Community Service Act (NCSA) of 1990, the Serve America, The Community Service, Schools and Service-Learning Act of 1990, the American Conservation and Youth Service Corps Act of 1990, and various other programs shall be excluded as income only (P.L. 101-610, Section 177(d)). The NCSA includes programs under the Serve America, American Conservation and Youth Corps, and National and Community Service subtitles.

(A) Earnings of individuals, except dependent household members under 19 years of age, participating in on-the-job training funded by under Title I programs shall not be excluded, consistent with the provisions of Sections 63-502.135 and 63-507(a)(4).

HANDBOOK BEGINS HERE

- (B) ~~Other~~ Examples of programs that may be funded under Title I of the NCSA include: the Higher Education Service-Learning Programs; the AmeriCorps umbrella programs, including the National Civilian Community Corps and the Summer for Safety programs; and the School-to-Work Opportunities Program.

HANDBOOK ENDS HERE

- (18) Payments made to individuals because they have been determined to be victims of Nazi persecution (P.L. 103-286, Section (1)).

Authority Cited: Sections 10553, 10554, 11209, and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, 18902, and 18904, Welfare and Institutions Code; 7 Code of Federal Regulations (CFR) 273.8(e)(11); 7 CFR 273.9(c)(10); Public Law (P.L.) 89-642; P.L. 91-646, Section 216; P.L. 93-113; P.L. 94-105, Section 9(d); P.L. 95-531; P.L. 95-600; P.L. 97-300, Section 142(b); P.L. 99-425, Section (e); P.L. 99-576, Section 303(a)(1); P.L. 100-50; P.L. 100-175, Section 166; P.L. 100-383, Section 105(f)(2); P.L. 100-485, Section 301; P.L. 100-707, Section 105(i); P.L. 101-201; P.L. 101-329, Section 10405; P.L. 101-426; P.L. 101-508, Section 5801; P.L. 101-610, Section 177(d); P.L. 102-325; P.L. 102-586; P.L. 103-286, Section 1; 20 United States Code (U.S.C.) 2301-2466d; United States Department of Agriculture (U.S.D.A.), Food and Nutrition Service (FNS), Administrative Notice (AN) 94-41, dated April 19, 1994; U.S.D.A., FNS, ANs 94-58 and 94-59, dated July 5, 1994; and U.S.D.A., FNS, AN 94-72, dated September 15, 1994.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD# 0493-11

OAL FILE
NUMBERS

NOTICE FILE NUMBER

Z94-0726-13

REGULATORY ACTION NUMBER

950804-035

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1995 AUG -4 PM 3:59

OFFICE OF
ADMINISTRATIVE LAWENDORSED AT 3:40 O'clock P.M.
APPROVED FOR FILING BY BILL JONES, Secretary of State
AND PUBLICATION BY Eloise Anderson, Deputy Secretary

SEP 14 1995

FILED
In the office of the Secretary of State
of the State of California

SEP 14 1995

NOTICE

REGULATIONS

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE SB 689 and AB 656 Regulations		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		<input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified		<input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 94-#31-2	
						PUBLICATION DATE 8-5-94	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT	42-731
SECTIONS AFFECTED	AMEND	42-720, 42-730, 42-740, 42-742, 42-784, and 42-787.
	REPEAL	

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

July 3, 1995 through July 20, 1995

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE

8-4-95

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Sections 42-720.3, .5, and .6 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.3 County Plan Content (Continued)

.36 The county plan shall include a program budget proposal in a format provided by CDSS.

.361 The budget proposal shall detail the costs associated with providing the range of services in the plan. The budget proposal shall also identify:

1a) The amount of funds, including RRP/TA funds, that the CWD expects to spend for each component with supporting detail regarding the caseloads anticipated in each component;

1b) Salary and benefit expenses for CWD employees by classification, administrative support and overhead costs, and contractual services;

(~~a~~) (Continued)

(~~b~~) (Continued)

.5 CDSS County Plan Approval (Continued)

.58 A plan will be approved only if it provides an adequate range of services.

.581 For large counties, as defined by CDSS for AFDC cost control purposes, "an adequate range of services" means that the CWDs shall provide all of the job services, education, training, and supportive services described in Sections 42-730, 42-750 and 42-775.35, except as provided in Section 42-730.61. However, the use of the grant diversion funding mechanism described in Section 42-730.4 shall be optional.

(a) If two or more counties submit a joint plan, and the joint plan serves a caseload equal to or greater than a large county, the plan shall provide for all of the above services. (Continued)

.6 GAIN Target Population Priority (Continued)

.62 If the CWD's expenditure pattern after consultation with CDSS, is determined by the Department to be inconsistent with the county plan, the CWD shall submit the following to the Department:

1b21 The current expenditure projection by component;

.62~~7~~1 (Continued)

.62~~7~~2 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11320.6(b), 11320.8(c), 11321, 11321.2, 11321.2(a), 11321.2(b), 11322(a), 11322.2(b), 11322.4, 11322.8, 11323.15, 11330.5(d), 11330.8(c), 11330.9, 11333.5(b), and 13280, Welfare and Institutions Code; 45 CFR 250.1; 45 CFR 250.11; 45 CFR 250.12(c); ~~and~~ 45 CFR 250.31(a); 45 CFR 250.44; 45 CFR 250.45; and 45 CFR 250.63(k).

Amend Section 42-730.1 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES

42-730

- .1 The CWD may provide job, training, and education services directly to program participants, or by referral to services provided by the PIC. The CWD also shall enter into contracts or interagency agreements as specified in Sections 42-740, 42-741, and 42-742 with private or public agencies for the provision of these services when not provided directly by the CWD. ~~The CWD shall be responsible for receiving and resolving complaints regarding displacement as described in 113 and 1129 below.~~ (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11322.6(f), 11322.8(h)(6), 11323, 11323.15, 11324.2(a)(2), 11324.4(b), 11324.6, and 11330.7, Welfare and Institutions Code; AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.60(c) and (d); 45 CFR 250.62(b)(2); and 45 CFR 251.3(a).

Adopt Section 42-731 to read:

42-731 Employee Displacement Grievance Process

42-731

The following grievance process shall be used to resolve the complaints of regular employees or their representatives who believe assignment of a GAIN participant to a preemployment preparation (PREP), on-the-job training (OJT), or grant diversion-funded component violates any of the displacement provisions at Manual of Policies and Procedures (MPP) Sections 42-730.13, 42-730.329, or 42-730.418, as applicable. All displacement complaints shall be in written form and shall include the full name, address (if any), and telephone number (if any) of the alleged displaced employee, the full name and address of the employer against whom the complaint is being filed, a clear and concise statement of the facts concerning the alleged displacement, including pertinent dates, and a statement that the complaint has been signed under penalty of perjury.

.1 Informal Resolution

.11 Upon receipt of a written complaint by the employee or employee's representative, the CWD shall contact both the complainant and affected employer and attempt to informally resolve the complaint.

.12 The period for informal resolution shall begin on the date the complaint is received by the CWD and shall not exceed ten calendar days.

.121 Nothing in this section shall prohibit informal resolution of the complaint at any time during the displacement grievance process.

.13 Following its efforts to informally resolve the complaint, the CWD shall send a letter informing the complainant of the following:

.131 The employer's response to the complaint, including any actions the employer is willing to take toward informal resolution.

.132 The right to request a formal hearing as specified in Section 42-731.21 if the complainant is dissatisfied with the employer's informal response.

.133 The procedures for filing a formal hearing including the address to which a request for hearing should be sent.

.134 The time limit for filing a request for formal hearing as specified in Section 42-731.211.

.14 The CWD shall send the letter required by Section 42-731.13 no later than the tenth calendar day from the date the complaint was received by the county.

.141 Copies of the letter shall be sent to the affected employer.

.2 Formal Hearing

.21 If the complaint cannot be informally resolved, the complainant may request a formal hearing.

.211 A written request for formal hearing must be filed no later than ten calendar days following the employee's receipt of the letter required by Section 42-731.13.

(a) The date postmarked on the hearing request shall be considered the date of its filing.

.22 Formal hearings shall be conducted by the California Department of Social Services (CDSS), Administrative Adjudications Division.

.23 The CDSS, Office of the Chief Administrative Law Judge shall inform the complainant and affected employer in writing of the date, time and location of the hearing and of the opportunity to present evidence, bring witnesses, cross-examine witnesses, and bring or send an authorized representative.

.231 An authorized representative is defined as an individual or organization that has been authorized by the complainant or affected employer to act on behalf of the complainant or affected employer in any and all aspects of the formal hearing. An authorized representative may include legal counsel, a relative, friend, or other spokesperson.

.232 A party who wishes to submit a document into evidence must provide a copy of it, free of charge, to the other party.

.233 The Administrative Law Judge may not discuss the merits of a pending state hearing with one party outside the presence of the other party.

.24 Except as specified in this section, the following provisions of MPP, Division 22 shall apply to formal hearings:

.241 Section 22-010 relating to authorized representatives.

(a) Notwithstanding the provisions of Section 22-010, both the complainant and affected employer may bring or send an authorized representative.

.242 Except as specified below, Section 22-049 relating to general rules and procedures at the hearing.

(a) To the extent that Section 22-049.11 refers to rehearings, it shall not apply.

(b) Sections 22-049.52 and 22-049.532, and any references to Section 22-049.532, shall not apply.

- (c) Sections 22-049.8 and 22-049.9 shall not apply.
 - (d) To the extent the provisions of Section 22-049 apply to formal hearings, all references to "claimant" and "county" shall be deemed to refer to "complainant" and "affected employer," respectively.
- .243 Section 22-050 relating to evidence.
 - (a) Requirements at Section 22-050.21 shall not apply.
- .244 Section 22-053 relating to postponements and continuances for additional evidence.
 - (a) Section 22-053.11 shall not apply.
 - (b) Notwithstanding the time parameters identified in Sections 22-053.1 and 22-053.2, the time limit set forth in Section 42-731.25 shall apply.
 - (c) To the extent that the provisions of Section 22-053 apply to formal hearings, all references to "claimant" and "county" in such regulations shall be deemed to refer to "complainant" and "affected employer," respectively.
- .245 Sections 22-061.1, .3, and .4 relating to submission and adoption of proposed decisions.
- .246 Section 22-062 relating to action by the Director.
 - (a) Notwithstanding the time limits for director action specified in Section 22-062.2, requirements for issuance of a hearing decision at Section 42-731.25 shall apply.
- .25 A written hearing decision shall be issued within 90 calendar days of the date the complaint was received by the county.
- .26 Copies of the written decision shall be sent to all affected parties. The decision shall include:
 - .261 A statement identifying the right to federal appeal of the hearing decision as specified in Section 42-731.31.
 - .262 The address and instructions for filing a federal appeal.
 - .263 The time limit within which the appeal must be filed as specified in Section 42-731.32.
 - .264 A listing of the required appeal contents as specified in Section 42-731.33.

.27 When a hearing decision upholds the displacement complaint, the decision shall:

.271 Require termination of the assignment which brought about the complaint and any other assignments which have caused the displacement of regular employees.

.272 Identify those actions which shall be taken to remedy the displacement in accordance with Section 42-731.4.

.3 Federal Appeal

.31 Any dissatisfied party may appeal the formal hearing decision to the United States Department of Labor.

.32 The appeal must be filed within 20 calendar days of the appellant's receipt of the written decision.

.33 The appeal shall contain the following:

.331 The appellant's full name, address and telephone number.

.332 The provisions of the Social Security Act, federal regulations, or state regulations believed to have been violated.

.333 A copy of the original complaint filed with the CWD.

.334 A copy of the formal hearing decision regarding the complaint being appealed.

.34 The state shall file the entire administrative record of the matter under appeal with the United States Department of Labor within 30 calendar days of that Department's request for this information.

.4 Remedies

.41 Remedies for displaced employees shall include reinstatement, back pay, and/or back benefits from the affected employer.

.5 Union Grievance

.51 Any grievance procedure that is part of a collective bargaining agreement between the employer and labor union representing the dissatisfied employee shall be used in lieu of the process described in Section 42-731.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11324.7 and 11327.8(d) and (e), Welfare and Institutions Code; and 45 CFR 251.4.

Amend Section 42-740.1 to read:

42-740 CONTRACTS/AGREEMENTS FOR GAIN JOB, TRAINING AND
EDUCATION SERVICES

42-740

- .1 Contracts/agreements between the CWD and providers of job, training or education services, including employers providing PREP, shall include specific criteria as follows: (Continued)

.19 Contracts/agreements for PREP, OJT, or any activity funded by grant diversion shall identify the displacement grievance process defined in MPP Section 42-731. In addition, such contracts/agreements shall specify that the employer or training provider shall either:

.191 Notify the appropriate labor union of the use of GAIN participants in any location or work activity controlled by an employer and covered by a collective bargaining agreement between the employer and a union as well as the right of union employees to grieve displacement by GAIN participants; or

.192 Notify nonunion employees of the use of GAIN participants and of the grievance process described in Section 42-731.

(a) Display of a poster shall satisfy this requirement.

(1) The poster required by Section 42-740.192(a) shall not specifically identify any GAIN participant.
(Continued)

Authority Cited: Sections 10553, ~~and~~ 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11322.8(a), 11324.5, 11328.2(c), 11328.6(a), Welfare and Institutions Code, AB 312, Chapter 1568, Statutes of 1990; 45 CFR 250.1, 45 CFR 250.61(b) and (c), and 45 CFR 250.72(c) and (d).

Amend Section 42-742.1 to read:

42-742 CONTRACTS/AGREEMENTS FOR ON-THE-JOB TRAINING (OJT),
SUPPORTED WORK, AND TRANSITIONAL EMPLOYMENT
FUNDED BY GRANT DIVERSION

42-742

- .1 Contracts/agreements with employers or intermediary service providers for OJT, supported work, or transitional employment as specified in Sections 42-730.33, .34, and .35 shall be in accordance with Section 42-740 and shall provide that: (Continued)

111 The employer or service provider shall obtain and maintain a surety bond in an amount equal to the total annual grant diverted to the employer or service provider.

.143 (Continued)

.154 (Continued)

.165 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Assembly Bill 656, Chapter 1310, Statutes of 1989.

Amend Sections 42-784.2 and .4 to read:

42-784 METHOD OF DETERMINING NET LOSS OF INCOME FOR GAIN
GOOD CAUSE CRITERIA (Continued)

42-784

- .2 For purposes of determining good cause under GAIN, net loss of income is considered to occur when current income is greater than the post_employment income would be if the job offer were accepted. (Continued)
- .4 Post_employment income shall be determined as follows: (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 11328(k), Welfare and Institutions Code; 45 CFR 250.35(c); and 54 FR 42174.

Amend Section 42-787.1 to read:

42-787 GAIN STATE HEARING AND FORMAL GRIEVANCE

42-787

Except as specified in Section 42-787.5 below, when a participant believes that any program requirement or assignment is in violation of the contract or is inconsistent with the program, the CWD shall inform him/her of the right either to request a state hearing, to file a formal grievance based on the procedures established in Section 5302 of the Unemployment Insurance Code, or to file a formal grievance based on the procedures established by the county board of supervisors.

.1 State Hearing (Continued)

.14 If a GAIN participant or other affected party is dissatisfied with a state hearing decision involving on-the-job working conditions, workers compensation coverage, or wage rates used to calculate PREP hours of participation, the party may appeal the decision to the United States Department of Labor.

.141 A copy of the written decision shall be issued to all affected parties and shall identify the right to federal appeal. The decision shall also provide the address and instructions for filing an appeal.

(a) The instructions shall include the requirement that the appeal be filed within 20 calendar days following receipt of the written decision. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 11327.8, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 251.5(a) through (d); and 45 CFR 255.2(h) (2).

NOTICE-PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

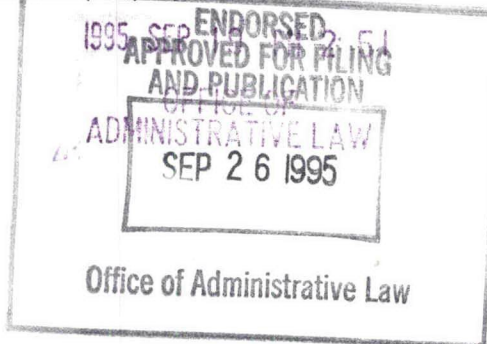
California Department of Social Services

AGENCY FILE NUMBER (if any)

ORD#0295-05

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 95-0919-065	PREVIOUS REGULATORY ACTION NUMBER
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For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

ORIGINAL
For use by Secretary of State only

FILED

Office of the Secretary of State
State of California

SEP 26 1995

At 3:26 O'clock P.M.
BILL JONES, Secretary of StateBy *Robert L. Conick*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE AB 836 and 1371 Amendments for GAIN/Child Care/Fraud Programs		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) MPP	ADOPT
SECTIONS AFFECTED	AMEND 20-353, 42-711, 42-730 42-772, 42-774 and 47-120 REPEAL

2. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☒ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State
 ☐ Effective on filing with Secretary of State
 ☒ Effective other (Specify) October 1, 1995

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☒ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify) _____

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER
657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, DIRECTOR

DATE SEP 18 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for reoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 20-353 to read:

20-353 DISQUALIFICATION PENALTIES

20-353

- .1 Except as provided in Section 20-353.2, individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction shall be ineligible to receive AFDC benefits as follows:
 - .11 Six months for the first violation.
 - .12 Twelve months for the second violation.
 - .13 Permanently for the third violation.
- .2 Individuals found to have committed an IPV either through an administrative disqualification hearing or by a court of appropriate jurisdiction, based upon submitting more than one application for the same period of time and for the purpose of receiving more than one grant of aid,

or

for submitting documents for nonexistent children, or submitting false documents for the purpose of showing ineligible children to be eligible for aid, shall be ineligible to receive AFDC benefits as follows:
 - .21 Two years for the first violation.
 - .22 Four years for the second violation.
 - .23 Permanently for the third violation.
- .3 Counties shall not apply Section 20-353.2 to those applicants and recipients who are designated as members of the California Work Pays Demonstration Project control group.
 - .31 The designation and treatment of the control group shall be accomplished pursuant to the Terms and Conditions for the California Work Pays Demonstration Project (CWPDP) approved by the United States Department of Health and Human Services on March 9, 1994.
 - .32 The penalties under Section 20-353.1 shall apply to any type of IPV committed by a member of the control group.
- .74 (Continued)
- .75 One or more IPV's which occurred prior to the implementation of these penalties shall be considered as only one previous disqualification when determining the penalty to impose.
- .74 The CWD shall disqualify only the individual(s) found to have committed the IPV.

.~~5~~6 (Continued)

.~~6~~7 (Continued)

.78 (Continued)

.~~8~~9 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11486, Welfare and Institutions Code; 42 U.S.C. 616(b); 7 CFR 273.16(b), (e)(8), (f)(2), (g)(2), and (i)(4)(A); and 45 CFR 235.112 and .113/; Federal Terms and Conditions for the California Work Pays Demonstration Project (CWPDP) approved by the United States Department of Health and Human Services on March 9, 1994 and Amendments to the Federal Terms and Conditions for the California Work Pays Demonstration Project approved by the United States Department of Health and Human Services on September 11, 1995.

Amend Section 42-711 to read:

42-711 DEMONSTRATION PROJECTS

42-711

.1 Federal Demonstration Projects (Continued)

- .14 For the purposes of the California Work Pays Demonstration Project (CWPDP), the control county shall not apply the following new provisions to those applicants and recipients who are designated as members of the Project's control group/:

.141 (Continued)

.142 Section 42-772.63 - Exception to participation limits for a parent or other relative who is personally providing care to a child under six years of age, when that parent/relative meets the criteria described in Section 42-774.214.

(a) See Section 42-711.152 for applicable rules.

.143 Sections 42-774.214 and .215 - Participation of 100 hours or more per month in a PREP or other work experience assignment, when a participant meets the criteria in Section 42-774.214.

(a) See Section 42-711.153 for applicable rules.

- .15 For purposes of the federal CWPDP, the control county shall apply the following provisions to those applicants and recipients who are designated as members of the Project's control group:

.151 (Continued)

.152 Section 42-772.6 - Except as provided in Sections 42-772.61, .62, and .71 participation shall not be required for more than 20 hours per week for any parent or other relative who is personally providing care to a child under age 6.

.153 Section 42-730.323 - The number of hours a person participates in a PREP assignment shall be determined by the appropriate formula provided in Sections 42-730.323(a) or (b).

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Section 11310, Welfare and Institutions Code/; and the Amendment to the Federal Terms and Conditions for the California Work Pays Demonstration Project approved by the United States Department of Health and Human Services on September 11, 1995.

Amend Section 42-730 to read:

42-730 GAIN JOB, TRAINING, AND EDUCATION SERVICES (Continued) 42-730

.2 (Continued)

.27 Subject to the GAIN Program participant flow process as described in Sections 42-771 through 774, participation in job search activity shall be limited as follows:

.271 (Continued)

.272 (Continued)

.273 (Continued)

.274 Counties shall not require any individual to participate in job search activity in excess of the limits specified in Sections 42-730.271 and .272 except as part of a CWD approved education, training or employment activity as follows:

(a) (Continued)

(b) During ~~the 90-day~~ job search services ~~period following~~ after successful completion of an assigned activity; or

(c) (Continued)

.3 (Continued)

.31 (Continued)

.32 Preemployment Preparation (PREP)

.321 PREP shall be a nonsalaried work experience assignment with a public or private nonprofit agency serving a useful public purpose. The assignment shall ~~that~~ provide the participant with ~~either of the following:~~ basic job skills or enhance existing job skills in a position related to his/her experience, training or education, or provide a needed community service.

(a) ~~Basic PREP, which shall provide work behavior skills and a reference for future unsubsidized employment; or~~

(b) ~~Advanced PREP which shall provide on-the-job enhancement of existing or recently acquired participant skills.~~

.322 ~~Basic and advanced PREP assignments may be either short-term or long-term assignments.~~

(a) ~~Short-time PREP assignments shall be for not longer than three months and may be provided as a preparation for other education and training services as a part of the contract amendments as specified in Section 42-774.~~

(b) Except for participants subject to the provisions of Section 42-774.213, a long-term PREP assignment shall not exceed one year 12 months.

(1) A long-term advanced PREP assignment shall be in a position which enhances the participant's experience, training, or education acquired as a result of the services provided pursuant to the participant contract between the participant and the CWP as specified in Section 42-774.

.322 The number of hours a person participates in a PREP assignment shall be determined by the appropriate formula provided in Section 42-730.322(a) or (b).

(a) (Continued)

(1) The formula described in Section 42-730.322(a) shall only be used for determining PREP hours during the first through the ninth month of a PREP assignment.

(b) (Continued)

(1) The formula described in Section 42-730.322(b) shall only be used beginning in the tenth month and any future months of a long-term PREP assignment.

(2) When the rate of pay for the same or similar occupation at the same site as provided in Section 42-730.322(b) is less than the average hourly wage for job openings placed with EDD, the EDD average hourly wage shall be used.

.323 (Continued)

.324 The county shall review the assignment after six months and make revisions as necessary to ensure that it continues to be consistent with the participant's contract and is effective in preparing the participant to attain his or her employment goal.

(a) The review shall include at a minimum:

(1) A visit to the participant's worksite, and

(2) A discussion with the participant's supervisor and the participant about his/her assignment and/or job search progress.

(b) For participants subject to the provisions of Section 42-774.215, the review shall be every six months and shall also include an evaluation of whether extenuating circumstances, as specified in Section 42-774.212, have developed.

(1) Necessary revisions to ensure consistency with the participant's contract and effectiveness in preparing the participant to attain his/her goal shall be consistent with the provisions of Section 42-774.213.

.325 (Continued)

.326 The participant assigned to PREP shall ~~be expected to~~ continue to seek employment.
(Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 11322.6(f), 11322.8~~(h)(6)~~ (b)(1), (2) and (5), 11323, 11323.15/ 11324.2(a)(2), 11324.4(b), 11324.6, 11326(c) and (d)(2), and 11330.7, Welfare and Institutions Code; 45 CFR 250.60(c) and (d); 45 CFR 250.62(b)(2); 45 CFR 250.63(c) and (k); and 45 CFR 251.3(a) / ~~and 45 CFR 250.63(k).~~

Amend Section 42-772.6 to read:

42-772 GAIN BASIC PARTICIPANT CONTRACT REQUIREMENTS
(Continued)

42-772

- .6 Except as provided in Sections 42-772.61, 42-772.62, 42-772.63, and 42-772.71, for any parent or other relative who is personally providing care to a child under age 6, participation shall not be required for more than 20 hours per week.
- .61 (Continued)
- .62 (Continued)
- .63 The participation limit specified in Section 42-772.6 shall not apply to any parent or other relative who is personally providing care to a child three to six years of age, when that parent/relative meets the criteria described in Section 42-774.214. (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections ~~11310(b)(1)(B)~~ (d) and (e), 11320.3(b)(6)(B), ~~11322.1(b)~~ 11325.2(c)(5), (6) and (7), 11326.2(b), (c)(5)(D) and (E), 11326(d)(1) and (d)(2), 11330, 11330.1, 11330.2, 11330.4, 11330.5, 11330.6, 11330.8, 11330.10, 11330.11, 11331.5, 11332.7(b) and 11334, Welfare and Institutions Code; 45 CFR 250.1; 45 CFR 250.30(b)(9)(ii), 250.32(a)(1) and (3)(ii); 45 CFR 250.35(a), 250.48 and .48(b); ~~and~~ 45 CFR 255.2(a) and (c); 42 USC 402(a)(19)(C)(iii)(II); Amendment to the Federal Terms and Conditions for the California Work Pays Demonstration Project (CWPDP) as approved by the United States Department of Health and Human Services on September 11, 1995.

Amend Section 42-774 to read:

42-774 PARTICIPANT CONTRACT AMENDMENTS

42-774

Whenever a participant is assigned to a different program component, the contract shall be amended to reflect the assignment and supportive services (Section 42-750) necessary for participation. The CWD and the participant shall sign the amended contract and be bound by its terms.

.1 (Continued)

.12 (Continued)

.121 (Continued)

(c) Assignment to a long term PREP component shall not be part of this initial contract amendment. An assignment to advanced long-term PREP shall be made only when the participant meets the conditions of 121 below. An assignment to basic long-term PREP shall be made only when the participant meets the conditions of 13 below.

(dc) (Continued)

.2 (Continued)

121 Participants who have completed OJT, adult basic education (ABE) (including high school equivalency), vocational training/education and/or vocational ESL and who have not obtained employment shall not receive any additional training or education services, including PREP, as defined in Sections 42-730.13 and 42-730.15, until all other individuals needing such services are being served, except as specified in Section 42-774.1211.

.21 The county shall conduct a reappraisal of any participant who does not obtain unsubsidized employment upon completion of all activities included in a post assessment employment plan developed in accordance with Section 42-773 and job search services required by Section 42-730.2.

.211 The reappraisal shall evaluate whether there are extenuating circumstances, as specified in Sections 42-774.211(a) through (e), that prevent the participant from obtaining employment within the local labor market area with the education and training previously received. The CWD may request verification of the extenuating circumstance.

(a) The occupation for which training or education services were received is no longer in demand in the local labor market.

- (b) The participant has experienced a change in his/her physical or mental condition or in his/her family circumstances which precludes employment in the occupation for which training or education services were received.
- (c) The participant has moved to a county in which the occupation for which training or education services were received is not in demand in the local labor market.
- (d) The participant is unable to obtain needed licenses or approvals.
- (e) At the discretion of the CWD, and as documented in the case file, any substantial and compelling reason other than those specified in this section.

.2112 Upon a determination that extenuating circumstances exist, as specified in Sections 42-774.211(a) through (e), the participant shall be assigned to receive additional training and/or education services, as the county determines to be appropriate and necessary. shall be provided to participants described in section 42-774/21 in extenuating circumstances which include, but are not limited to, those specified in sections 42-774/211(a) through 211(e). The CWD may request verification of the extenuating circumstance.

(a) The employment plan shall be revised to reflect the appropriate and necessary changes.

(a) The occupation for which training or education services were received is no longer in demand in the local labor market.

(b) The participant has experienced a change in his/her physical or mental condition or in his/her family circumstances which precludes employment in the occupation for which training or education services were received.

(c) The participant has moved to a county in which the occupation for which training or education services were received is not in demand in the local labor market.

(d) The participant is unable to obtain needed licenses or approvals.

(e) At the discretion of the CWD, and as documented in the case file, any substantial and compelling reason other than those specified in this section.

1212 Participants described in Section 42-774/21 who do not obtain employment shall be referred to job services, as described in Section 42-730/2, for a period of 90 days. Job search activities during the 90-day period shall not be subject to the 40-day limit specified in Section 42-730/272.

1213 Participants described in Section 42-774.1212 who remain unemployed after the 90-day job services period and who do not meet the provisions of Section 42-774.1211 shall be eligible only for additional job services, subject to the limits specified in Section 42-730.271.

(d) Participation in job services shall be required annually until the participant is again eligible for training or education services.

.213 Upon determination that no extenuating circumstances exist, and until this determination is reversed, the participant shall only receive the following services:

(a) PREP or other work experience assignment

(1) The participant shall continue to seek employment during the PREP or work experience assignment in accordance with Section 42-730.326.

(2) A county that is operating under a cost reduction plan in accordance with Section 42-720.62 may limit participation in PREP and/or work experience to one year.

(b) Job search services as described in Section 42-730.2 for a period not to exceed eight weeks per year.

HANDBOOK BEGINS HERE

(1) Consistent with ~~her~~ the employment plan, the participant is assigned to a vocational training assignment. Upon completion of the assignment, the participant does not obtain employment; there are no extenuating circumstances. The only services this participant is entitled to receive are PREP or other work experience and job search services.

The participant is then assigned to 90-day job services, which is the only activity available to her. If she has not obtained employment after the 90-day job services assignment, she is eligible only for additional job services, subject to the 40-day time limit. She would not be eligible for any other GAIN activity until all other eligible participants are being served.

(2) (Continued)

HANDBOOK ENDS HERE

.214 A PREP or work experience assignment as described in Section 42-774.213 shall meet the requirements of Section 42-774.215 if the participant meets all of the following criteria:

- (a) The participant does not meet exemption or deferral criteria as specified in Sections 42-761.4 and 42-788, respectively.
- (b) The participant is unemployed or employed for less than 15 hours per week.
- (c) The participant has received AFDC payments for 22 of the last 24 months.

.215 The PREP or work experience assignment of a participant who is subject to the provisions of Section 42-774.214 shall require at least 100 hours per month participation in a PREP or work experience assignment that is appropriate to the participant's skills and abilities.

- (a) The hours of participation in a PREP or other work experience assignment shall exceed 100 hours per month if required by the provisions of Section 42-730.322.
- (b) A work experience assignment may be appropriate community service that includes, but is not limited to, volunteer hours in a school, hospital, public library, or park and recreation district.
- (c) The PREP or work experience assignment shall be reviewed in accordance with Section 42-730.324 and shall include an evaluation of whether extenuating circumstances, as specified in Sections 42-774.211(a) through (e), have developed.

HANDBOOK BEGINS HERE

- (1) Consistent with the employment plan, a participant is assigned to ABE, followed by OJT. The participant has completed all activities in her employment plan but is unable to find employment. The determination is made that there are no extenuating circumstances. Further, this participant is neither exempt nor deferred and has received aid for 22 of the last 24 months. The computation of the hours based on the formula in Section 42-730 does not equal 100 hours. She must participate in a PREP assignment for 100 hours per month.

HANDBOOK ENDS HERE

122 Participants who have completed short-term PREP or an activity funded by grant diversion and who have not obtained employment may be referred to additional training or education services necessary to meet the employment goal.

1221 Participants described in Section 42-774/22 who subsequently complete OJT/ ABE/ vocational training/education or vocational ESL shall be subject to the provisions of Section 42-774/21.

1222 Participants described in Section 42-774/22 who are not referred to additional training or education services shall be referred to job services/ as described in Section 42-730/2/ for a period of 90 days/ job search activities during the 90-day period shall not be subject to the 40-day limit specified in Section 42-730/272/

1A) Participants described in Section 42-774/222 who remain unemployed at the end of the 90-day job services period shall be referred to an advanced long-term PREP assignment/ as described in Section 42-730/32/ for a period of 12 months/

1Y) The advanced long-term PREP assignment may be shortened in accordance with Section 42-774/4/

HANDBOOK BEGINS HERE

1A) Consistent with her employment plan/ the participant is assigned to a short-term advanced PREP activity/ she does not obtain employment upon completion of the PREP assignment and is assigned to 90-day job services/ she remains unemployed and is referred to long-term advanced PREP/

Because she has not yet received OJT/ ABE/ vocational education/training or vocational ESL/ she remains eligible to receive any GAIN training or education activities needed to obtain employment/

1B) Consistent with his employment plan/ the participant is assigned to a short-term basic PREP activity/ followed by OJT/ Upon completion of the OJT/ the participant does not obtain employment/ The only GAIN activity the participant is eligible to receive is job services until all other eligible participants are being served/

HANDBOOK ENDS HERE

- 13 Except as provided in Section 42-774.132, whenever a participant does not have good cause for failing to meet the criteria specified in Section 42-774.131 for successful completion of the assigned training or educational services agreed to in Sections 42-774.11 or 12, he/she shall be reassigned to a basic long-term PREP assignment as described in Section 42-730.132. The contract shall be amended to reflect the assignment to basic long-term PREP and the provision of supportive services.
- 131 The assignment to basic long-term PREP shall be for 12 months. The assignment may be shortened in accordance with 14 below.
- 132 Section 42-774.13 shall not apply to a participant in a concurrent enrollment program pursuant to Sections 42-730.16 and 42-772.158. Failure or refusal by such a participant to comply with program requirements in accordance with criteria specified in Section 42-774.131 shall be governed by the provisions of Sections 42-772.1584, 42-781.172, and 42-786.123.
- 14 The CWP shall review a participant's basic or advanced long-term PREP assignment at least every six months to ensure its continued conformity to the contract and its likelihood of leading to unsubsidized employment.
- 141 This review shall include the following:
- 1411 A visit to the participant's worksite; and
- 1412 A discussion with the participant's supervisor and the participant about his/her assignment and/or job search progress.
- 142 If the assignment is clearly inconsistent with the participant contract or cannot lead to unsubsidized employment, the CWP shall perform the following:
- 1421 If the assignment is a basic PREP assignment, and the participant has not developed basic work behavior skills that would be considered acceptable to an employer, refer the participant for the remainder of the one-year period to another basic PREP assignment which conforms to the contract and has a likelihood of leading to unsubsidized employment.
- 1422 If the assignment is a basic PREP assignment, and the participant has displayed consistent progress and developed basic work behavior skills that would be considered acceptable to an employer, refer the participant to another component that is consistent with the employment plan.
- 1423 If the assignment is an advanced PREP assignment, refer the participant for the remainder of the one-year period to another advanced PREP assignment which conforms to the contract and has a likelihood of leading to unsubsidized employment.

12) If no suitable advanced PREP assignment exists, a review of the participant's employment plan and any necessary revisions to obtain the goal of unsubsidized employment shall be made.

13 At the end of the one-year period of long term PREP, the qualified assessor (see Section 42773.1) and the participant shall review the employment plan and shall make any revisions necessary to obtain the goal of unsubsidized employment. These revisions shall become an amendment to the basic contract.

.63 (Continued)

.74 (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11322.4(f) and (g), 11322.6(f)(2), ~~11323.13~~, 11324.8(a), 11325.4(a) and (c), ~~and 11325.8~~ and 11326, Welfare and Institutions Code and 45 CFR 250.60(d); Amendment to the Federal Terms and Conditions for the California Work Pays Demonstration Project approved by the United States Department of Health and Human Services on September 11, 1995.

Amend Section 47-120 to read:

47-120 PROGRAM ELIGIBILITY

47-120

.1 A family shall meet the following conditions to be eligible for TCC:

.11 (Continued)

.12 The family shall be ineligible for federal AFDC as a result of:
(Continued)

.124 Failure to submit the monthly income report, if the family is able to prove they also met one of the conditions as specified in this subsection/; or

.125 Marriage or because separated spouses reunite and the family:

(a) No longer meets the deprivation requirement specified in Section 41-401.14; or

(b) Has increased assets specified in Sections 42-207.1, .2 and/or 42-213.2(z); or

(c) Has increased income over the 185% gross income test specified in Section 44-207.2.

.126 Counties shall not apply Section 47-120.125 to those applicants and recipients who are designated as members of the California Work Pays Demonstration Project control group.

(a) The designation and treatment of the control group shall be accomplished pursuant to the Terms and Conditions for the California Work Pays Demonstration Project (CWPDP) approved by the United States Department of Health and Human Services on March 9, 1994.

(Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 250, 10613, 11209, 11501(a), 11501.5, and 11511(a), Welfare and Institutions Code; 45 CFR 206.10; 45 CFR 232.12; 45 CFR 233.90; 45 CFR 255.4(f)(2); and 45 CFR 256.2 and .4/; and Amendment to the Terms and Conditions for the California Work Pays Demonstration Project approved by the United States Department of Health and Human Services on September 11, 1995.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

ORIGINAL
For use by Secretary of State only

STD. 400 (REV. 2-91)

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (If any)

0693-18

OAL FILE
NUMBERSNOTICE FILE NUMBER
Z95-0320-01

REGULATORY ACTION NUMBER

95-0815-035

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1995 AUG 15 AM 10:37

OFFICE ENDORSED
ADMINISTRATIVE APPROVED FOR FILING
AND PUBLICATION

SEP 26 1995

Office of Administrative Law
REGULATIONS

NOTICE

FILED

In the office of the Secretary of State
of the State of California

SEP 26 1995

At 3:26 O'clock P.M.
BILL JONES, Secretary of StateBy: *Salvatore Connick*
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 95-#13-2	PUBLICATION DATE 3-31-95	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S) 22	ADOPT
SECTIONS AFFECTED	AMEND Sections 102369, 102393, 102416, and 102417
	REPEAL

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346)
 ☐ Resubmittal
 ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)
 ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only
 ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☒ Effective 30th day after filing with Secretary of State
 ☐ Effective on filing with Secretary of State
 ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)
 ☐ Fair Political Practices Commission
 ☐ State Fire Marshal

☐ Other (Specify)

6. CONTACT PERSON

Frank R. Vitulli

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

DATE

August 10, 1995

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Amend Section 102369(b) (7) to read:

102369 APPLICATION FOR INITIAL LICENSE

102369

(a) through (b) (6) (Continued)

- (7) Evidence that the small family day care home contains a fire extinguisher ~~or~~ and smoke detector device/ ~~or both~~ which meets standards established by the State Fire Marshal under Section 1597.45(d) of the Health and Safety Code or evidence that the large family day care home meets the standards established by the State Fire Marshal under Section 1597.4~~5~~6(d) of the Health and Safety Code.

(8) (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.877, 1597.45, 1597.46, 1597.54, and 1597.57, Health and Safety Code.

Renumber Sections 102393(d) and (e) to Sections 102393(c)(1) and (d), respectively:

102393 REVOCATION OR SUSPENSION OF A LICENSE OR REGISTRATION 102393

(a) and (b) (Continued)

(c) (Continued)

~~(d)~~ (1) Upon receipt of a notice of defense to the accusation by the licensee, the Director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 30 days after receipt of the notice.

(d) ~~(e)~~ (Continued)

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.885 and 1596.886, Health and Safety Code.

Amend Sections 102416.5(a) and (b) to read:

102416.5 STAFFING RATIO AND CAPACITY

102416.5

- (a) The maximum number of children, including ~~the licensee's own~~ children residing in the licensee's home under age ~~12~~ 10 for whom care shall be provided when there is no assistant provider in the home shall be either:
(Continued)
- (b) The maximum number of children, including ~~the licensee's~~ children residing in the licensee's home under age 10 and the assistant provider's own children under age ~~12~~ 10, for whom care shall be provided when there is an assistant provider in the home shall be twelve children, no more than four of whom may be infants.
- (c) and (d) (Continued)

Authority Cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.57 and 1596.78, Health and Safety Code.

Amend Section 102417(g)(1) to read:

102417 OPERATION OF A FAMILY DAY CARE HOME

102417

(a) through (f) (Continued)

(g) (Continued)

- (1) Fireplaces and open-face heaters shall be screened to prevent access by children. The home shall contain a fire extinguisher ~~or~~ and smoke detector device/ ~~or both~~ which meets standards established by the State Fire Marshal. (Continued)

(h) through (o) (Continued)

Authority cited: Section 1596.81, Health and Safety Code.

Reference: Sections 1596.72, 1596.73, 1596.81(b), 1596.881, 1596.882, 1597.30, 1597.45, 1597.46, and 1597.531, Health and Safety Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

AGENCY FILE NUMBER (if any)

ORD #0295-03

OAL FILE
NUMBERSNOTICE FILE NUMBER
Z95-0530-11

REGULATORY ACTION NUMBER

95-0920-01C

EMERGENCY NUMBER

95-0602-02E

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only

1995 SEP 20 AM 10:43

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

Original
For use by Secretary of State only

FILED

In the office of the Secretary of State
of the State of California

SEP 27 1995

At 2:51 O'clock P.M.
BILL JONES, Secretary of StateBy Ramona Conick
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE <u>Blanco v. Anderson Implementation</u>		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER <u>95-#23-2</u>	PUBLICATION DATE <u>6-9-95</u>

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)	ADOPT
<u>MPP</u>	<u>11-601</u>
SECTIONS AFFECTED	AMEND
	<u>44-317, 63-007, 63-205, and 63-300</u>
	REPEAL

2. TYPE OF FILING

- ☐ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))
- ☒ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify)

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

- ☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify)

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

- ☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal
- ☐ Other (Specify)

6. CONTACT PERSON

Frank Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Eloise Anderson

TYPED NAME AND TITLE OF SIGNATORY

ELOISE ANDERSON, Director

DATE

SEP 13 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

- .1 (Continued)
- .2 Sections 11-601 and 63-300.38 shall be effective July 1, 1995.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code, 7 CFR 272.4(g), Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995.

.1 Hours of Operation

CWDs are responsible for determining the location and hours of operation of certification and issuance services available to Food Stamp applicants and recipients based on an assessment of their needs. To make this determination, CWDs shall conduct an annual review of the hours of operation of Food Stamp certification and issuance offices to ensure that the needs of recipients who work are adequately met. The results of these reviews shall be submitted to the California Department of Social Services to be retained for review by the federal Food and Nutrition Service. Requirements for CWD offices that are not open to the public eight hours per day, Monday through Friday, are specified in Section 11-601.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code, 7 CFR 272.4(g), Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. Civ. S-93-859 WBS, JFM, dated January 3, 1995.

.3 Filing, Notice of Right to File and Withdrawal (Continued)

.38 Beginning Date of Application When CWD Is Closed on Normal Work Days

.381 In the event the CWD is closed during the regular eight hours of a working day as defined in Sections 11-601.214 and .215, and an application for Food Stamp benefits is deposited in a drop box, mail slot, or other reasonable accommodation in accordance with Section 11-601.311(b), the "date of application" shall be the date the application is deposited.

.382 In the event the CWD is closed during the regular eight hours of a working day as defined in Sections 11-601.214 and .215, and an applicant calls to make a request for emergency benefits in accordance with Section 11-601.313, the date of application shall be the date the telephone call is received.

HANDBOOK BEGINS HERE

.383 Example: On Friday, when the CWD is closed, an applicant deposits an application for Food Stamp benefits in a mail slot designated for that purpose. The application will be date stamped with Friday's date or it will be otherwise indicated on the application that it was received on Friday, the date of application. Had the applicant made a request for Homeless Assistance, Food Stamp Expedited Services, Medi-Cal, or AFDC Immediate Need via the local telephone service on Friday, the date of application would be Friday and the application would have to be processed within established time frames.

HANDBOOK ENDS HERE

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 11023.5, and 18904, Welfare and Institutions Code; 7 CFR 273.2(b)(ii), (c)(5), (f)(3)(ii), and (j)(1); 7 CFR 273.4(a)(10); and USDA Food and Nutrition Service Office, Western Region, Administrative Notice 84-56, Indexed Policy Memo 84-23; 7 U.S.C.A. 2020(e)(2); and Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995.

Chapter 11-600 LAWSUITS INVOLVING MULTIPLE PROGRAMS

11-601 BLANCO v. ANDERSON LAWSUIT

11-601

HANDBOOK BEGINS HERE

.1 Background

The Blanco v. Anderson lawsuit challenged the closure of county welfare department (CWD) offices during regular business hours except Saturdays, Sundays, and legal holidays.

The initial decision, issued on December 16, 1993, addressed only the closure of CWD Food Stamp offices without first having completed a review of the office hours of operation as required by federal regulations at 7 CFR 272.4(g). Emergency state regulations implementing the specific federal regulatory requirements for the required annual office hours review were effective June 1, 1994.

The final judgment, issued December 20, 1994, and amended January 3, 1995, finds that by allowing CWDs to close their offices during the "regular eight hours of the working day," class members have been denied their right to apply for and receive Food Stamp, AFDC, homeless assistance, and Medi-Cal benefits. The court ordered that when the CWDs are closed during the regular eight hours of the working day, they must do the following. They must make it possible for individuals to apply for and receive Food Stamp, AFDC, and Medi-Cal benefits, including emergency benefits, within the time limits prescribed by state and federal law. The CWDs must also provide notice of their hours of operation and of the procedures, during these hours of closure, for applying for and receiving these benefits, including emergency benefits.

These regulations implement the December 20, 1994 judgment as amended January 3, 1995.

HANDBOOK ENDS HERE

.2 Definitions

.21 For purposes of these regulations, the following apply:

- .211 "Accept and act upon all applications for emergency benefits" includes providing such emergency benefits within the time limits prescribed by federal and state law.
- .212 "Local telephone service" means a telephone number which is toll-free for the same geographic area as the regular telephone number for each CWD office.

.213 "Opportunity to file an application for benefits" includes the provision of special assistance under 7 CFR 273.2(e) and (f) (see Sections 63-300.4 and .5) and 45 CFR 233.10(a)(1)(vi) (see Section 40-157.213).

(a) "Special assistance" means assisting the applicant as necessary in order to provide emergency benefits within the time limits prescribed by federal and state law, including waiving the face-to-face office interview, conducting the application interview by telephone, and assisting the applicant in gathering needed documents.

.214 "Regular eight hours of a working day" means the eight-hour period the CWD's offices are open to the public. If the CWD office is never open eight hours on a working day, the "regular eight hours of the working day" shall mean the hours that the CWD office is open, plus an additional time period(s) immediately before, after, or between these hours, which cumulatively equal eight hours.

.215 "Working days" means Mondays, Tuesdays, Wednesdays, Thursdays, and Fridays, excluding federal and state holidays.

.3 County Responsibilities

.31 If a CWD closes its offices at any time during the regular eight hours of a working day, the CWD shall do all of the following during those hours of office closure:

.311 Provide individuals the opportunity to file an application for and receive Food Stamp and/or AFDC benefits within the time limits prescribed by federal and state law.

(a) Make applications for such benefits readily available to individuals.

(b) Provide a drop-box, mail slot, or other reasonable means for filing applications.

(1) Applications deposited as described in Section 11-600.311(b) shall be deemed to have been filed on the date of the CWD office closure.

(2) In the event an individual certifies he/she was denied the opportunity to file an application, and the CWD does not have evidence to the contrary, the application shall be processed in all respects as though it was filed on the date of the CWD office closure.

.312 Provide individuals the opportunity to file an application for and receive expedited Food Stamp, immediate need AFDC, and/or homeless assistance benefits within the time limits prescribed by federal and state law.

- (a) Maintain sufficient staff to accept and act upon all such applications, and/or
 - (b) Maintain a local telephone service with sufficient staff to accept and act upon all such applications as if such requests had been made in person at the CWD's office.
- .313 Greet incoming calls on the main telephone lines of the CWD's offices with an announcement informing the caller of following:
- (a) The working days, or regular eight hours of a working day, when the offices will be closed;
 - (b) The procedures for obtaining and filing applications for Food Stamp and AFDC benefits, during these hours of office closure; and
 - (c) The procedures for applying for and receiving expedited Food Stamp, immediate need AFDC, and homeless assistance benefits, within the time limits prescribed by federal and state law, during these hours of office closure.

HANDBOOK BEGINS HERE

- (d) CDSS and the Department of Health Services are enjoined by court order in the Blanco v. Anderson lawsuit. The court order includes provisions for providing services to clients under Medi-Cal as well as Food Stamp and AFDC programs. The order requires that telephone announcements greeting incoming calls informing the public of the provisions specified in Sections 11-601.313(a), (b), and (c) include information regarding Medi-Cal and emergency medical services.

HANDBOOK ENDS HERE

- .314 Post notices in prominent locations within the CWD's offices and in the public areas, including the doors, immediately outside the CWD's offices which inform the public of the following:
- (a) The working days, or the regular eight hours of a working day, when the offices will be closed;
 - (b) The procedures for obtaining and filing applications for Food Stamp and AFDC benefits during these hours of office closure; and
 - (c) The procedures for applying for and receiving expedited Food Stamp, immediate need AFDC, and homeless assistance benefits within the time limits prescribed by federal and state law, during these hours of office closure.

HANDBOOK BEGINS HERE

- (d) CDSS and the Department of Health Services are enjoined by court order in the Blanco v. Anderson lawsuit. The court order includes provisions for providing services to clients under Medi-Cal as well as Food Stamp and AFDC programs. The order requires that notices posted by the CWD offices informing the public of the provisions specified in Sections 11-601.314(a), (b), and (c) include information regarding Medi-Cal and emergency medical services.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: Section 18902, Welfare and Institutions Code; Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995.

When the applicant is found eligible, the following are beginning dates of aid:

.1 Basic Date of Aid Determination

.11 (Continued)

.111 (Continued)

- (a) In the event the CWD is closed during the regular eight hours of a working day as defined in Sections 11-601.214 and .215, and an application for AFDC benefits is deposited in a drop box, mail slot, or other reasonable accommodation in accordance with Section 11-601.311(b), the "date of application" shall be the date the application is deposited.
- (b) In the event the CWD is closed during the regular eight hours of a working day as defined in Sections 11-601.214 and .215, and an applicant calls to make a request for emergency benefits in accordance with Section 11-601.313, the date of application shall be the date the telephone call is received.

HANDBOOK BEGINS HERE

- (c) Example: On Friday, when the CWD is closed, an applicant deposits an application for AFDC benefits in a mail slot designated for that purpose. The application will be date stamped with Friday's date or it will be otherwise indicated on the application that it was received on Friday, the date of application. Had the applicant made a request for Homeless Assistance, Food Stamp Expedited Services, Medi-Cal, or AFDC Immediate Need via the local telephone service on Friday, the date of application would be Friday and the application would have to be processed within established time frames.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553, 10554, 10604, and 11209, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10604, and 11056, Welfare and Institutions Code; 45 CFR 206.10; 45 CFR 233.10(a)(1); 45 CFR 233.20(a)(1)(ii); 45 CFR 233.60; 45 CFR 233.90(c)(2)(i); ~~and~~ Section 3510 (October 1961), Federal Handbook of Public Assistance Administration; and Blanco v. Anderson Court Order, United States District Court, Eastern District of California, No. CIV-S-93-859 WBS, JFM, dated January 3, 1995.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

0595-20

OAL FILE
NUMBERS

NOTICE FILE NUMBER

REGULATORY ACTION NUMBER

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

95-0919-05E

For use by Office of Administrative Law (OAL) only

NOTICE

REGULATIONS

Office of Administrative Law

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Mickey Leland Childhood and Domestic Hunger Relief Food Stamp Regs.

TITLE(S)

FIRST SECTION AFFECTED

2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE
☐ Notice re Proposed
☐ Regulatory Action☐ Other

4. AGENCY CONTACT PERSON

TELEPHONE NUMBER

OAL USE
ONLY

ACTION ON PROPOSED NOTICE

☐ Approved as
Submitted☐ Approved as
Modified☐ Disapproved/
Withdrawn

NOTICE REGISTER NUMBER

PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)

TITLE(S)

ADOPT

MPP

63-004

SECTIONS
AFFECTED

AMEND

63-004 (renumbered to 63-1432)

63-300, 63-301, 63-403, 63-406, 63-502, 63-503, 63-504, and 63-505

REPEAL

per agency Dmc 9-28-95

2. TYPE OF FILING

☐ Regular Rulemaking (Gov.
Code, § 11346)☐ Resubmittal☐ Changes Without Regulatory Effect
(Cal. Code Regs., title 1, § 100)☒ Emergency (Gov. Code,
§ 11346.1(b))☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.☐ Print Only☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

N/A

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after
filing with Secretary of State☐ Effective on filing with
Secretary of State☒ Effective
other (Specify)

October 1, 1995

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399)☐ Fair Political Practices Commission☐ State Fire Marshal☐ Other (Specify) _____

6. CONTACT PERSON

Frank R. Vitulli, Chief, Office of Regulations Development

TELEPHONE NUMBER

(916) 657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

SEP 18 1995

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Renumber and amend Section 63-004 to Section 63-1432 and adopt new Section 63-004 to read:

~~§3-004~~ IMPLEMENTATION OF THE OMNIBUS BUDGET RECONCILIATION
63-1432 ACT OF 1990, PUBLIC LAW 101-508 (Continued)

~~§3-004~~
63-1432

- .2 The amended provisions in ~~§3-004~~ 63-1432 shall be implemented as follows:
(Continued)

63-004 IMPLEMENTATION OF THE CHILD SUPPORT DEDUCTION PROVISION OF THE 63-004
MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT, PUBLIC LAW 103-66,
AND ELIGIBLE STUDENT PROVISION OF THE MICKEY LELAND MEMORIAL
DOMESTIC HUNGER RELIEF ACT, PUBLIC LAW 101-624.

- .1 Effective October 1, 1995, the amended regulations contained in Sections 63-300.51(a) through .51(j) et seq., .523, .531(b); 63-301.541(a); 63-403.321; 63-406.11, .12, and .212; 63-502.353(a)(5), .37 et seq.; 63-503.25, .251, .251(b)(2), .252, .252(c), .253, .311(f), (g), and (h), .312(g), (h), and (i), .441(a), .442(c)(2) and (c)(3); 63-504.341(i), .421(c), (c)(1), (c)(2), and (d), .631(a) and (c); and 63-505.31, .32, .4(j), .51, and .516 shall become effective for all food stamp households.
- .2 Beginning October 1, 1995 county welfare departments (CWDs) shall implement the required program changes for all new applications.
- .3 Continuing cases shall be adjusted at the next recertification, at household request, or when the case is next reviewed, whichever comes first. Restored benefits shall be provided back to October 1, 1995, except as specified in Section 63-004.4.
- .4 For a household member who was denied benefits or terminated from receiving benefits from October 1, 1994 through September 30, 1995 due to not meeting the student eligibility criteria, but for whom the eligibility criteria should not have been applicable because the student was age 50 or over on the date of the interview, the household is entitled to restored benefits back to October 1, 1994 or the date of application, whichever occurred later. The CWD shall adjust a case if the household is otherwise entitled to benefits, and requests a review of its case or the CWD becomes aware a review is needed.

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code.

Renumber Sections 63-300.511, .512 et seq., .513 et seq., .514, .515 et seq., .516 et seq., .517, .518 et seq., and .519 et seq. to Sections 63-300.51(a), .51(b) et seq., .51(c) et seq., .51(d), .51(e) et seq., .51(f) et seq., .51(g), .51(h) et seq., and .51(i) et seq., respectively; amend Sections 63-300.51(e), .523, and .531(b); and adopt Sections 63-300.51(j) et seq. to read:

63-300 APPLICATION PROCESS (Continued)

63-300

.5 Verification (Continued)

.51 Mandatory Verification (Continued)

~~/511~~ (a) Gross Nonexempt Income (Continued)

~~/512~~ (b) Alien Status (Continued)

(~~1~~) (Continued)

(~~1~~A) (Continued)

(~~2~~) (Continued)

(~~1~~A) (Continued)

(~~2~~B) (Continued)

(~~3~~C) (Continued)

(~~3~~) (Continued)

(~~1~~A) (Continued)

HANDBOOK BEGINS HERE

~~/A1.~~ (Continued)

HANDBOOK ENDS HERE

(~~4~~) (Continued)

(~~5~~) (Continued)

(~~1~~A) (Continued)

(~~2~~B) (Continued)

(~~3~~C) (Continued)

(~~6~~) (Continued)

(~~7~~) (Continued)

(~~8~~) (Continued)

(~~9~~) (Continued)

1513 (c) Identity (Continued)

(~~a~~1) (Continued)

(~~b~~2) (Continued)

(~~c~~3) (Continued)

(~~d~~4) (Continued)

(~~e~~5) (Continued)

(~~f~~6) (Continued)

(~~g~~7) (Continued)

1514 (d) Social Security Numbers (Continued)

1515 (e) Residency

The residency requirements of Section 63-401 shall be verified except as provided in Sections 63-300.51~~5~~4(e)(1) and 63-301.71. Verification of residency should be accomplished to the extent possible in conjunction with the verification of other information such as, but not limited to: rent or mortgage payments, utility expenses, and identity. (Continued)

~~a~~/ (1) (Continued)

1516 (f) Continuing Shelter Costs (Continued)

~~a~~/ (1) Utility Expenses (Continued)

~~b~~/ (2) Entitlement to the Standard Utility Allowance (Continued)

1517 (g) Medical Expenses (Continued)

1518 (h) Sponsored Alien (Continued)

(~~a~~1) (Continued)

(~~b~~2) (Continued)

(~~c~~3) (Continued)

(~~d~~4) (Continued)

(~~e~~5) (Continued)

(~~f~~6) (Continued)

(~~g~~7) (Continued)

(~~h~~8) (Continued)

~~1819~~ (i) Disability (Continued)

(~~1~~1) (Continued)

(~~2~~2) (Continued)

(~~3~~3) (Continued)

(~~4~~4) (Continued)

(1A) (Continued)

(2B) (Continued)

(~~5~~5) (Continued)

(~~6~~6) (Continued)

(1A) (Continued)

(2B) (Continued)

(3C) (Continued)

(~~7~~7) (Continued)

(~~8~~8) (Continued)

(~~9~~9) (Continued)

(j) Child Support Obligation and Actual Payments

(1) The household's legal obligation to pay child support, the amount of the obligation, and the monthly amount of child support the household actually pays, shall be verified. The household is responsible for providing verification.

(2) Households that fail or refuse to cooperate by supplying the necessary verifications shall have their eligibility and benefit level determined without a child support deduction.

(3) Once the verification is accomplished, the circumstances need not be reverified unless there is a change in the legal obligation or increase in the amount of the payment.

.52 Optional Verifications (Continued)

.523 Household Size

The size of the household may be verified. All other factors involving household composition shall be verified only if questionable in accordance with Sections 63-300.531 and 301.72. Verification of household size shall be accomplished through a collateral contact or readily available documentary evidence. Examples of acceptable documentary evidence include, but are not limited to:

- school records
- census records,
- marriage records, or
- any documents which establish identity such as those examples listed in Section 63-300.517(c). (Continued)

.53 Verification of Questionable Information (Continued)

.531 Household Composition (Continued)

- (b) Individuals described in Section 63-402.15, who claim to be a separate household from those with whom they reside based on the various age and disability factors for determining separateness shall be handled as specified in Section 63-300.517(f)(6).

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 11023.5, and 18904, Welfare and Institutions Code; 7 CFR 273.2(b)(ii), (c)(5), proposed (f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (f)(3)(ii), and (j)(1); 7 CFR 273.4(a)(10); and USDA Food and Nutrition Service Office, Western Region, Administrative Notice 84-56, Indexed Policy Memo 84-23; and 7 U.S.C.A. 2020(e)(2).

Amend Section 63-301.541(a) to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued)

63-301

.5 Expedited Service (Continued)

.54 Special Procedures for Expediting Service

.541 The CWD shall use the following procedures when expediting certification and issuance:

- (a) In all cases, the identity of the individual making application shall be verified through a collateral contact or readily available documentary evidence as specified in Section 63-300.51~~7~~(c). (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Section 11349.1, Government Code; 7 CFR 271.2; 7 CFR 273.2(h)(1)(C), (i)(4)(iii)(B), (j), (j)(1), (j)(1)(iv), (j)(2)(iii), (j)(3), (j)(4), and (j)(4)(vi); 7 CFR 273.8(e)(17); 7 CFR 273.10(c)(1); 7 CFR 274.2; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) _____ F. Supp. _____ [Dock. No. CV-89-0768].); and Public Law 102-237, Sections 902 and 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992.

Amend Section 63-403.321 to read:

63-403 CITIZENSHIP AND ALIEN STATUS (Continued)

63-403

.3 Verification (Continued)

.32 Verification of Alien Status

.321 Based on the application, the CWD shall determine if members identified as aliens are eligible aliens, as defined in Sections 63-403.1(b) through (1), by requiring that the household present verification for each alien number. Requirements for the verification of alien status are addressed in Section 63-300.512(b). (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(j)(3) and (4), 7 CFR 273.4(a)(8), 7 CFR 273.10(b), 7 CFR 273.6, U.S.D.A. Food and Nutrition Service Administrative Notice 92-30, Federal Register, Vol. 56, No. 233, page 63594; and Sections 10554 and 18904, Welfare and Institutions Code.

Amend Sections 63-406.11, .12, and .212 to read:

63-406 STUDENTS

63-406

.1 Applicability.

- .11 Any person who is age eighteen through ~~thirty~~ forty-nine; physically and mentally fit for employment; and enrolled at least half time, as defined by the institution, in an institution of higher education (as defined in Section 63-102(i)), shall be ineligible to participate in the Food Stamp Program unless that person complies with the eligibility requirements as specified in Section 63-406.2.
- .12 Student eligibility requirements shall not apply to persons age 17 or under, persons age ~~50~~ 50 or over, or persons physically or mentally unfit for employment, persons attending high school, persons enrolled exclusively in noncredit college courses, such as but not limited to, English as a Second Language (ESL) and General Education Diploma (GED) courses, persons participating in on-the-job training programs, persons enrolled in an institution of higher education less than half time, or to persons enrolled full time in schools and training programs which are not institutions of higher education. (Continued)

.2 Eligibility Requirements.

- .21 In order to be eligible to participate in the Food Stamp Program, any student (as defined in Section 63-406.1) shall meet at least one of the following criteria on the date of the interview: (Continued)
- .212 Be participating in a state or federally financed work study program ~~funded in full or in part under Title IV-C of the Higher Education Act of 1965 as amended~~ during the regular school year, as defined by the institution; (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 273.10(b); 7 CFR 273.5; and 7 U.S.C. 2015(e).

Amend Section 63-502.353(a)(5) and adopt Section 63-502.37 et seq. to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued)

63-502

.3 Income Deductions (Continued)

.35 Excess Shelter Deduction (Continued)

.353 Standard Utility Allowance (SUA)

(a) Entitlement to SUA (Continued)

- (5) Households living in a public housing unit or other rental housing unit which has central utility meters and are charged for only excess utility costs shall not be entitled to claim the SUA. Households not entitled to the SUA may claim actual utility expenses for any utility which they pay separately. However, a household cannot simultaneously claim both the SUA and actual utility expenses. Verification of utility expenses shall be made as specified in Sections 63-300.51(f) and 63-504.341. (Continued)

.37 Child Support Deduction

- .371 The child support deduction is the monthly amount of child support payments that a household member, with a legal obligation to pay child support payments to or for an individual living outside of the household, actually makes.
- .372 The payments shall be verified as specified in 63-300.51(j).
- .373 Households that fail or refuse to cooperate by supplying the necessary verifications shall have their eligibility and benefit level determined without a child support deduction.
- .374 Payments are deductible only to the extent that they represent the household's child support obligation which has been ordered by a court or administrative authority.
- .375 Child support payments made to a third party (e.g., a landlord or utility company) on behalf of the nonhousehold member in accordance with the support order shall be included in the child support deduction. Payments made by a household with a legal obligation to obtain health insurance for a child shall also be included as part of the child support deduction.
- .376 Amounts paid toward arrearages shall be deductible.

Authority Cited: Sections 10553, 10554, 11209, 18900, 18901 and 18904, Welfare and Institutions Code.

Reference: Sections 10554, 18901, and 18904, Welfare and Institutions Code; Public Law (P.L.) 100-50, Sections 22(e)(4) and 14(27), enacted June 3, 1987; P.L. 100-77; P.L. 101-201; P.L. 101-508, Section 11111(b); P.L. 103-66, Section 5(c), (d) and (e) and Section 8(a); 7 Code of Federal Regulations (CFR) 271.2; 7 CFR 273.7(f); 7 CFR 273.9; 7 CFR 273.9(b)(1); 7 CFR 273.9(c); 7 CFR 273.9(d) and proposed (d)(7) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; and (e); 7 CFR 273.11(d)(1); 7 CFR 273.21(j)(1)(vii)(A); 7 United States Code (U.S.C.) 2014(c), (d), (e), (k)(1)(B), and (k)(2)(F); 7 U.S.C. 2015(e); 7 U.S.C. 2017(a); 20 U.S.C. 2466d.; 26 U.S.C. 32(j)(5); (Court Order re Final Partial Settlement Agreement in Jones V. Yeutter (C.D. Cal Feb. 1, 1990) _____ F. Supp. _____ [Dock. No. CV-89-0768].); United States Department of Agriculture (U.S.D.A.) Food and Nutrition Service (FNS) Administrative Notice (AN) 88-40, Indexed Policy Memo 88-10, dated April 20, 1988; U.S.D.A., FNS ANs 91-24, 91-30, and 94-39; U.S.D.A., FNS Waiver Letter WFS-100:FS-10-6-CA, dated October 2, 1990; U.S.D.A., FNS, AN 94-41, dated April 19, 1994; and the July 8, 1988 district court order in Hamilton v. Lyng.

Amend Sections 63-503.25, .251, .252, .253, .311, .312, .441, and .442 to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT LEVELS (Continued) 63-503

.2 Determining Resources, Income and Deductions (Continued)

.25 Determining Deductions For All Households

Deductible expenses include only certain medical, dependent care, ~~and~~ shelter costs, and child support as ~~specified~~ specified in Section 63-502.3.

.251 Billed Expenses

Except as ~~provided~~ specified in Section 63-503.252 for averaged expenses and Section 63-502.37 for the child support deduction, a deduction shall be allowed only for the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay the expense. Rent which is due each month shall be included in the household's shelter expenses, even if the household has not yet paid the expense. Amounts carried forward from past billing periods shall not be deducted, even if included with the most recent billing and actually paid by the household. In any event, an allowable expense shall be deducted only once. (Continued)

- (b) When an eligible household member presents a medical bill, other than for hospital expenses, the amount of the household's allowable medical cost shall be determined in the following manner: (Continued)

(2) Uninsured (Nonreimbursable) Medical Expenses

The total amount of the uninsured medical expenses incurred by an eligible household member and verified, in accordance with Section 63-300.517(g), is the amount of the household's medical cost. If a Medi-Cal bill is submitted for an allowable medical expense incurred, but not covered by Medi-Cal, the full amount billed shall be the household's medical cost regardless of the member's share of cost. (Continued)

.252 Averaging Expenses

All households may elect to have fluctuating expenses or payments for the child support deduction averaged. Households may also elect to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings, or, if there is no scheduled interval, averaged forward over the period the expenses are intended to cover (such as local property taxes and fire insurance). (See Section 63-502.352.) The household may elect to have one-time only expenses averaged over the entire certification period in which they are billed. (Continued)

- (c) For retrospectively budgeted households, the CWD shall budget deductible expenses or payments for the child support deduction averaged over two or more months retrospectively provided that such deductions are not budgeted over more months than they are intended to cover, and the total amount deducted does not exceed the total amount of the expenses. The CWD shall continue to allow deductions for expenses incurred or payments made for the child support deduction even if billed on other than a monthly basis unless the household reports a change in the expense. At that time, it shall be recalculated.

.253 Anticipating/Estimating Expenses

The CWD shall calculate a nonmonthly reporting household's expenses based on the expenses the household expects to be billed for or based on the payments expected to be made for the child support deduction during the certification period. Anticipation of the expenses or payments for the child support deduction shall be based on the most recent month's bills or payments for the child support deduction, unless the household is reasonably certain a change will occur. When the household is not claiming the standard utility allowance, the CWD may anticipate changes during the certification period based on last year's bills from the same period updated by overall price increases; or, if only the most recent bill is available, utility cost increases or decreases over the months of the certification period may be based on utility company estimates for the type of dwelling and utilities used by the household. The CWD shall not average past expenses, such as utility bills for the last several months, as a method of anticipating utility costs for the certification period. For households which shall be subject to retrospective budgeting the procedures in Section 63-503.212(c)(1) shall be used to estimate expenses in the beginning months. The CWD shall budget expenses regularly billed as a single monthly payment for the months such expenses are intended to cover. (Continued)

.3 Calculating Net Income and Benefit Levels

.31 Net Monthly Income (Continued)

- .311 To determine a household's net monthly income, unless the household contains a member who is elderly or disabled as defined in Section 63-102(e), the CWD shall: (Continued)

(f) Subtract allowable monthly child support payments as specified in Section 63-502.37.

(fg) (Continued)

(gh) (Continued)

- .312 To determine the net monthly income of a household that includes a member who is elderly or disabled as defined in Section 63-102(e) the CWD shall: (Continued)

(g) Subtract the allowable monthly child support payments as specified in Section 63-502.37.

(~~g~~h) (Continued)

(~~h~~i) (Continued)

.4 Households with Special Circumstances (Continued)

.44 Treatment of Income and Resources of Excluded Members

- .441 Household Members Excluded for IPV Disqualification or Workfare or Work Requirement Sanction

During the period of time that a household member is ineligible to participate because of disqualification for IPV, noncompliance with work requirements as specified in Section 63-407.4 or imposition of a sanction while participating as a member of a household disqualified for failure to comply with workfare requirements, the eligibility and benefit level of any remaining household members shall be determined as follows:

(a) Income, Resources, and Deductible Expenses

The income and resources of the excluded household member(s) shall continue to be counted in their entirety, and the entire household's allowable earned income, standard, medical, dependent care, child support as specified in Section 63-502.37, and excess shelter deductions shall continue to apply to the remaining household members. (Continued)

- .442 Household Members Excluded for SSN Disqualification or Ineligible Alien Status

The eligibility and monthly allotment of any remaining household members of a household containing individuals excluded for being ineligible aliens or because of disqualification for refusal or failure without good cause to apply for or provide an SSN shall be determined as follows: (Continued)

(c) Deductible Expenses (Continued)

- (2) The household's allowable shelter, ~~and~~ dependent care, and child support expenses as specified in Section 63-502.37 which are paid in their entirety by the excluded member(s) shall be prorated as specified in Section 63-502.36 and only the Food Stamp eligible member'(s) pro rata share shall be counted as a deduction.

- (3) If such excluded member(s) shares allowable shelter, utility, ~~and/or~~ dependent care, and/or child support expenses as specified in Section 63-502.37 with the Food Stamp eligible household member(s), deduct the excluded member's contribution from the applicable expense and the net amount is the Food Stamp household's allowable deduction. If the contributed amount cannot be differentiated (e.g., pooled income), the Food Stamp household's deduction amount shall be determined as specified in Section 63-502.36. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 272.3(c)(1)(ii); 7 CFR 273.1(b)(2)(iii); 7 CFR 273.2(j)(4); 7 CFR 273.10(a)(1)(iii)(B); 7 CFR 273.10(c)(2)(iii) and (c)(3)(ii); proposed amended 7 CFR 273.10(d) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, and proposed (d)(8) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; proposed amended 7 CFR 273.10(e)(1)(i)(E-H) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.11(a)(2)(i), (c), (c)(1), (c)(2)(iii), (c)(3)(ii), (d)(1), and (e)(1); 7 CFR 273.21(f)(2)(ii), (iii), (iv), and (v), (g)(3), (j)(1)(vii)(B), and (s); (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) _____ F. Supp. _____ [Dock. No. CV-89-0768]); Waiver Letter WFS-100:FS- 10-6-CA, dated October 2, 1990, United States Department of Agriculture, Food and Nutrition Service; Administrative Notice No. 92-23, dated February 20, 1992 and No. 94-39; P.L. 101-624; and 7 U.S.C. 2012 and 2017(c)(2)(B).

Amend Sections 63-504.341, .421(c), and .631 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY
(Continued)

63-504

.3 Monthly Reporting (Continued)

.34 CWD Action on a Complete CA 7 Requiring Additional Verification/
Information (Continued)

.341 The household shall provide with the CA 7 verification of the
following items: (Continued)

- (i) A change in the legal obligation to pay child support to a person not in the food stamp household, as specified in 63-502.37, and/or an increase in the amount of child support payments. (Continued)

.4 Effecting Changes for Nonmonthly Reporting Households (Continued)

.42 Action on Reported Changes for Prospectively Budgeted Households

.421 The CWD shall take prompt action on all reported changes to
determine if the change affects the household's eligibility or
allotment. (Continued)

- (c) Changes reported during the certification period shall be
subject to the same verification procedures as apply at
initial certification, with the following exceptions. ~~that~~

- (1) ~~The~~ CWD shall not verify income, total medical
expenses or actual utility expenses which are
unchanged or have changed by \$25 or less.

- (2) An unchanged legal obligation to pay child support to a nonhousehold member, or a decrease in the amount of child support paid, does not need to be verified.

- (d) The CWD shall verify questionable information which is
incomplete, inaccurate, inconsistent or outdated.
(Continued)

.6 Recertification of All Households (Continued)

.63 Process for Recertifying Nonmonthly Reporting Households

.631 The following verification requirements shall apply at
recertification: (Continued)

- (a) The CWD shall verify: a change in income or actual utility expenses if the source has changed or the amount has changed by more than \$25; a change in the legal obligation to pay child support or an increase in the amount of child support paid.

(b) (Continued)

(c) Unchanged information/; ~~of~~ changes of \$25 or less in income, total medical expenses or actual utility expenses; or decreases in the amount of child support paid shall not be verified at recertification, except for questionable information which is incomplete, inaccurate, inconsistent, or outdated. (Continued)

Authority Cited: Sections 10554, 11265.1, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 271.2; proposed 7 CFR 273.2(f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, and proposed amended (8)(i)(A) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.2(j)(3) and (4), 7 CFR 273.8(b); 7 CFR 273.10(g)(1)(i) and (ii); proposed 7 CFR 273.12(a)(1)(vi) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.13(a)(2); 7 CFR 273.14(b)(3); 7 CFR 273.21(e)(1), (f)(1)(iii), (f)(1)(iv)(B), proposed (h)(2)(ix) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (h)(3), (h)(3)(ii), (j), (j)(1)(vi), (j)(1)(viii)(A) and (r); (j)(2)(iii), (j)(3)(ii) and proposed (j)(3)(iii)(E) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 274.10; and P.L. 101-624; Sections 10554 and 18904, Welfare and Institutions Code; 7 U.S.C. 2014(d)(7) and 2017(c)(2)(B); and U.S.D.A. Food and Nutrition Service Administrative Notice 94-39.

Amend Sections 63-505.31, .32, .4, and .51 to read:

63-505 HOUSEHOLD RESPONSIBILITIES (Continued)

63-505

.3 Reported Information for Monthly Reporting Households

Households shall report on a monthly basis, the following information about the household:

- .31 Budget month income, except as specified in Section 63-505.311, shelter and utility costs when there is a move, child care costs, the amount of child support payments made to a nonhousehold member as specified in 63-502.37, household composition, and other circumstances relevant to the amount of the food stamp allotment. This information shall be reported on the CA 7. (Continued)
- .32 Any changes in income, shelter and utility costs when there is a move, child care costs, a change in the legal obligation to pay child support payments to a nonhousehold member, resources or other relevant circumstances affecting eligibility which the household expects to occur in the current month or in future months, or which occurred in the budget month. (Continued)

.4 Verification Responsibilities for Monthly Reporting Households

Monthly reporting households shall provide verification of the following information reported on the CA 7: (Continued)

- (j) Changes in the legal obligation to pay child support and/or an increase in the amount of the child support payments.

.5 Reporting Changes for Households Excluded from Monthly Reporting Requirements

.51 Household Responsibility to Report

The CWD shall not impose any food stamp reporting requirements on nonmonthly reporting households except as provided in Section 63-505.511 through ~~.516~~. Certified households shall report the following changes in circumstances: (Continued)

- .516 A change in the amount of child support payments made to a nonhousehold member as specified in 63-502.37, and/or a change in the legal obligation to pay child support. (Continued)

Authority Cited: Sections 10554 and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.2(j)(3) and (4); 7 CFR 273.11(a)(2)(iii); 7 CFR 273.12 and proposed .12(a)(1)(vi) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.2(d); proposed 7 CFR 273.2(f)(1)(xii) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.21(b), (b)(4), proposed (h)(2)(ix) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994, (h)(3), and (i); and P.L. 101-624, Section 1723 [7 U.S.C. 2015(c)(1)(A)] and P.L. 102-237, Section 908 [7 U.S.C. 2016(h)(1)]; and Sections 10554 and 18904, Welfare and Institutions Code.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 2-91)

AGENCY

California Department of Social Services

AGENCY FILE NUMBER (If any)

ORD#1094-30

OAL FILE
NUMBERS

NOTICE FILE NUMBER

295-0320-01

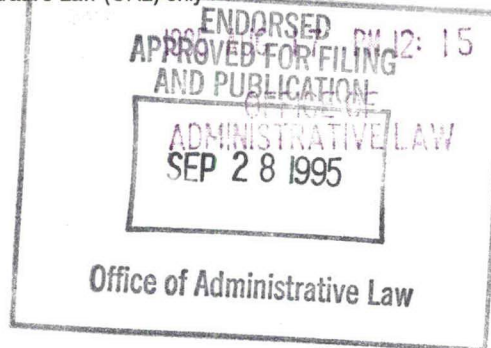
REGULATORY ACTION NUMBER

95-0817-045

EMERGENCY NUMBER

PREVIOUS REGULATORY ACTION NUMBER

For use by Office of Administrative Law (OAL) only



NOTICE

REGULATIONS

For use by Secretary of State only

FILED

In the office of the Secretary of State
of the State of California

SEP 28 1995

3:41 P.M. 17.
JAMES, Secretary of StateRobert Cornick
Deputy

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. TOPIC OF NOTICE Quality Control (QC) Review Process		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed <input type="checkbox"/> Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 95-1132	PUBLICATION DATE 3-31-95

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
TITLE(S) MPP	ADOPT Sections 15-101; 15-102; 15-310.1 through .6; 15-510; and 15-621 et seq.
SECTIONS AFFECTED	AMEND Sections 15-120 and 15-110.
	REPEAL Sections 15-310.1 through .4.

2. TYPE OF FILING

☒ Regular Rulemaking (Gov. Code, § 11346) ☐ Resubmittal ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Emergency (Gov. Code, § 11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.4 - 11346.8 prior to, or within 120 days of, the effective date of the regulations listed above.

☐ Print Only ☐ Other (specify) _____

3. DATE(S) OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45)

July 8, 1995 through July 24, 1995

4. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code § 11346.2)

☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☒ Effective other (Specify) October 1, 1995

5. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify) _____

6. CONTACT PERSON

Frank R. Vitulli, Office of Regulations Development

TELEPHONE NUMBER

657-2586

7.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

Eloise Anderson, Director

DATE

AUG 16 1995

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 2-91) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

The revised form STD. 400 replaces form STD. 398 (REV. 3/85) (Face Sheet for Filing Notice of Proposed Regulatory Action in the California Administrative Notice Register) and form STD. 400 (REV. 8/85) (Face Sheet for Filing Administrative Regulations with the Office of Administrative Law). Use the new form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the agency name and agency file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations, the statement of reasons and a list of small businesses to whom the notice will be mailed, if any. If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified" and place a number in the box marked "Notice File Number." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Government Code § 11347.3 for rulemaking file contents.)

**RESUBMITTAL OF DISAPPROVED OR WITHDRAWN
REGULATIONS**

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the number of the previously disapproved or withdrawn filing in the box marked

"Previous Regulatory Action Number" at the top of the form and submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Government Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Government Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A only. Please insert the OAL number for the original emergency filing in the box marked "Emergency Number" at the top of the form. OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B on the form that was previously submitted with the notice, or, if a new STD. 400 is used, please include the previously assigned numbers in the boxes marked "Notice File Number" and "Emergency Number." The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for readoption, use a new STD. 400 and fill out Part B, including the signed certification, and enter the OAL number of the original emergency filing in the box marked "Emergency Number" at the top of the form.

If you have any questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law at (916) 323-6225 or ATSS 473-6225.

Repeal Section 15-110 to read:

DIVISION 15 CORRECTIVE ACTION AND COUNTY QUALITY CONTROL PROGRAMS

15-110 GENERAL STATEMENT

HANDBOOK BEGINS HERE

The requirements set forth in this division are necessary to insure commitment to eligibility and benefit error reduction in the AFDC and Food Stamp Programs and provide an effective means for intergovernmental participation in the corrective action and quality control processes.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt Section 15-101 to read:

HANDBOOK BEGINS HERE

15-101 GENERAL PURPOSE AND SCOPE

15-101

.1 Purpose of the County Performance Sample

The County Performance Sample is used to measure the accuracy of California's welfare expenditures and assist in measuring program performance and recipient self-sufficiency outcomes. It is composed of the federally required quality control sample, and additional county quality control cases to obtain a sample of sufficient size to yield reliable measurements.

.2 Scope of the County Performance Sample

The California Department of Social Services (CDSS) is committed to achieving performance outcomes that improve the AFDC and Food Stamp programs. To measure these outcomes, counties will conduct case reviews of a randomly selected sample subject to the provisions of Section 15-310.5. The performance areas to be reviewed may include, but are not limited to:

- .21 Program integrity (e.g., error rates, timeliness and fraud),
- .22 Recipient employment,
- .23 Time on aid,
- .24 Administrative costs,
- .25 Intakes, and
- .26 Child support

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Adopt Section 15-102 to read:

15-102 COUNTY PERFORMANCE SAMPLE RESPONSIBILITIES

15-102

.1 CDSS

- .11 Provides oversight of the County Performance Sample activities to ensure case reviews are completed consistent with current federal and state quality control regulations.
- .12 Provides consultation, support, and training to county staff conducting the County Performance Sample.
- .13 Selects and integrates the County Performance Sample cases.
- .14 Identifies and conducts reviews of a sample of County Performance Sample cases which includes 100% of federal sample cases.
- .15 Maintains the County Performance Sample software
- .16 Provides quality control program and policy direction, difference case resolutions, and liaison with federal agencies.
- .17 Conducts review of federal AFDC and food stamp negative action cases.

.2 Performance Sample County

- .21 Reviews a County Performance Sample composed of AFDC and Food Stamp active cases consistent with current federal and state quality control regulations.
- .22 Submits County Performance Sample cases within state established time frames as specified in Section 15-310.13.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 15200.4 and 18905, Welfare and Institutions Code.

Renumber Section 15-120 to 15-110 and amend to read:

15-1210 DEFINITIONS

15-1210

(a.) (1) "AFDC Program Payment Error Rate" means the total aid payment expenditures misspent through payments to ineligible AFDC-FG/U recipients and AFDC-FG/U overpayments to eligible AFDC-FG/U recipients and payments to ineligible cases in the review sample divided by total dollars payments to completed cases in the review sample as of the end of for the review period year.

(AY) Overpayment / The amount paid to an eligible AFDC-FG/U recipient in excess of the correct payment!

(BY) Ineligibles / AFDC-FG/U recipients that have been paid but do not qualify for aid!

(b.) Reserved

(c.) ~~Reserved~~ (1) "CDSS" means the California Department of Social Services.

(2) "County Performance Sample" means a sample composed of the federal AFDC and Food Stamp cases and additional county AFDC and Food Stamp cases (formerly called State Sample cases).

(d.) Reserved

(e.) ~~Reserved~~ (1) "Error Rate" means the AFDC Program Payment Error Rate or the Food Stamp Program Payment Error Rate.

(f.) (1) Federal Performance Measures

(AY) Federal Sanction/Incentive Passon

The measure of county performance shall be the county's payment error rate established according to the procedures specified in Section 187310.1 for the October through September period for which the federal sanction applies!

"Federal Sample Case" means a case which is selected for review to satisfy a federal mandate to review a specified number of cases each year selected from a statewide universe.

(2) "Federal Performance StandardsTolerance Level" means the error rate the performance standard used to assess county performance shall be the one used by the federal government agencies in calculating determining the amount application of the a federal fiscal sanction.

(BY) Federal Review Year October through September!

(43) "Food Stamp Program Payment Error Rate" means / the sum of the overpayment/overissuances, issuances to ineligible cases error rate plus the underpayment and underissuances authorized in the review sample error rate divided by total issuances authorized to completed cases in the review sample for the review year.

(A) Overpayment Error Rate / the percent of allotments issued to ineligible households or overissued to eligible households/

(B) Underpayment Error Rate / the percent of allotments underissued to recipient households/

(54) "Funds" means for purposes of these regulations/ funds are AFDC-FG/U aid payments dollars paid by the county or Food Stamps allotments issued issuances authorized by the county.

(g.) Reserved

(h.) Reserved

(i.) Reserved (1) "Ineligibles" means cases that received AFDC-FG/U or Food Stamps but were not qualified to receive them.

(j.) Reserved

(k.) Reserved

(l.) Reserved

(m.) Reserved

(n.) Reserved (1) Non-Quality Control Monitored County / A county which performs quality assurance and/or desk reviews but does not perform state required quality control reviews/ Non-quality control monitored counties may be reviewed on a point-in-time basis by SPSS/

(o.) Reserved (1) "Overpayment" means the AFDC-FG/U amount paid to cases in excess of the correct amount.

(2) "Overissuance" means the amount of Food Stamps authorized to cases in excess of the correct amount.

(p.) (1) Payment Error Rate / The total funds in error in the sample divided by the total funds paid in the sample.

(1) "Performance Sample County" means a county in which an individual county payment error rate is established through a state conducted or supervised County Performance Sample.

(q.) Reserved (1) Quality Control Monitored County / A county in which annual state-required individual county payment error rates are established through county-performed quality control reviews/

/r./ (1) "Review Period Year" means / One of the two six-month quality control review periods during the Federal Review Year / October through March and April through September.

/s./ (1) SDSS / The State Department of Social Services /
"Small County Sample" means a sample composed of federal and additional county AFDC and Food Stamp cases that are selected from counties not participating in the County Performance Sample and reviewed by CDSS to provide additional information to include in a statewide data base.

/t./ Reserved

/u./ ~~Reserved~~ (1) "Underissuance" means the amount of Food Stamps authorized to cases for less than the correct amount.

/v./ Reserved

/w./ Reserved

/x./ Reserved

/y./ Reserved

/z./ Reserved

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 15200.4, Welfare and Institutions Code.

Repeal current Sections 15-310.1 through .4 and Adopt new Sections 15-310.1 through .6 to read:

15-310 QUALITY CONTROL ERROR IDENTIFICATION PROCESS

15-310

/I The county shall perform quality control reviews each month beginning with the October 1978 review month for AFDC/FG and V cases and beginning with the October 1987 review month for food stamp cases. The county shall use random case samples selected by SVSS for AFDC/ and Food Stamp sampled cases selected by the county based upon start and interval numbers provided by SVSS. Review forms and procedures shall comply with federal and state quality control standards and state reporting requirements.

/II Reviews are required in counties where, for each of two consecutive federal fiscal years (October through September), one percent of AFDC aid payment dollars is equal to, or greater than, the cost of performing AFDC and Food Stamp Program quality control sample reviews. Reviews shall begin the following October.

A county which has been performing quality control reviews, shall continue performing these reviews until, for each of two consecutive federal fiscal years, one percent of AFDC aid payment dollars is less than the cost of performing AFDC and Food Stamp Program quality control reviews. At that time the county shall have the option of continuing or discontinuing quality control reviews. If a county chooses to stop performing quality control reviews, reviews will not be required beginning the following October.

The AFDC aid payment dollars used shall be cumulative AFDC payments made during the most recent federal fiscal year.

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/III Repealed by Manual Letter No. OPS-91-03, effective 10/26/91.

/III Repealed by Manual Letter No. OPS-91-03, effective 10/26/91.

/III Repealed by Manual Letter No. OPS-91-03, effective 10/26/91.

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/II The results of the county reviews will be used by the county to establish error rates using the appropriate formula as follows:

/I21 For AFDC:

The sum amount of error payments to all ineligible cases added to the sum amount of overpayments to all eligible cases equals the total amount of error payments. Divide the total amount of error payments by the total amount of payments to all AFDC cases completed in the review sample. The resulting quotient is the county AFDC error rate.

1122 For Food Stamps!

The sum total of food stamp allotments issued to ineligible cases/ added to the sum total of food stamp allotments overissued to eligible cases/ added to the sum total of food stamp allotments underissued to eligible cases/ equals the total food stamp error payments/ Divide the total food stamp allotment error payments by the total amount of food stamp allotments issued to all food stamp cases completed in the review sample/ The resulting quotient is the county food stamp error rate!

113 Counties may conduct additional reviews to enhance local corrective action/quality control efforts!

12 State quality control staff will select and review an eight percent (8%) subsample of county reviews to determine the accuracy of county case review findings!

1a) The state will consider any disagreement the counties express regarding state findings in the 8% rereview!

The state will also conduct an annual review of county quality control operations! The state will prepare a report summarizing the issues identified during the annual review! The report will contain a summary of subsample findings!

There shall be no change to the county's error rate based upon the state subsample or the operational reviews! The results of subsample reviews shall not be subject to appeal by the county!

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The annual report can contain not only problems identified through the reviews/ but also may identify areas in which the county is excelling! Counties may also reiterate any continuing disagreement with state findings in the 8% review!

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13 SPSS has the option to select and review an expanded sample of a county's cases to establish a statistically valid error rate! The decision to select and review an expanded sample will be based on SPSS' conclusion that the county has a chronic and/or systemic problem in establishing an accurate error rate for corrective action! This conclusion may result from the 8% subsample reviewed by the state/ and/or/ the annual review of the county quality control operations completed by the state!

1a) Examples of chronic and/or systemic problems can include but are not limited to/ cases inappropriately dropped from the sample/ incorrect case findings/ incomplete case verifications/ insufficient staffing/ and/or lack of timely review/ with no evidence of improvement in response to state requests!

131 If a county disagrees with the SVSS findings of a specific case in the expanded case review, it shall be permitted to request a reconsideration of that case by the appropriate state Quality Control (QC) District Office (DO). The request for reconsideration must be received by the appropriate state QC DO within 28 calendar days of the date the county receives the state's findings.

132 SVSS shall replace the county original error rate with the error rate derived from the expanded case review.

14 Counties exempt from performing quality control reviews of the state selected sample (see section 13-103.1) shall conduct error identification reviews to establish a basis for corrective action.

.1 A Performance Sample County shall perform quality control reviews of AFDC and Food Stamp cases each month. Review criteria, and automated procedures shall comply with federal and state requirements.

.11 Counties constituting the top 90% of the state's annual AFDC expenditures for state fiscal years 1992 and 1993 are the Performance Sample Counties. Each of the 19 Performance Sample Counties, unless excluded by CDSS, is required to review and complete a monthly random sample of case reviews assigned by CDSS. Each participating Performance Sample County shall complete the following:

(a) Federal active AFDC and Food Stamp cases and,

(b) Additional county active AFDC and Food Stamp cases.

.12 County Performance Sample reviews shall be completed within the standards of quality as prescribed by current federal and state quality control regulations.

.13 All federal sample and additional county sample case reviews shall be completed and transmitted by county staff to the appropriate CDSS district office by the 80th calendar day following the date sample lists are received by county staff. The 80-day review period begins on the 1st day of the month following the sample month, or the date the sample is received by the county, whichever is later.

.131 September sample cases which are subject to shorter processing periods imposed by federal agencies shall be completed and transmitted to the appropriate CDSS district office by the 5th of the month that precedes the month September cases are transmitted to federal agencies.

.132 Cases selected subsequent to each original monthly sample to satisfy federal sampling requirements shall be completed and transmitted to the appropriate CDSS district office by the 10th of the month those cases are due for transmission to the federal agencies.

- .14 Substantial noncompliance by a Performance Sample County in meeting these standards, as documented by CDSS, shall subject that Performance Sample County to the provisions of Welfare and Institutions Code Section 10605. Examples of substantial noncompliance are the following:
- (a) chronically missing state established deadlines,
 - (b) chronically not meeting federal and state quality control regulations, or
 - (c) willfully misrepresenting data.
- .2 The results of the County Performance Sample reviews shall be used by CDSS to establish county program payment error rates using the appropriate formula as follows:
- .21 For AFDC:
- For a given review year, the sum of payments to ineligible cases and overpayments to eligible cases equals the total amount of erroneous payments. Divide the total amount of erroneous payments by the total amount of payments to all AFDC cases completed in the review sample. The resulting quotient is the county AFDC Program Payment Error Rate.
- .22 For Food Stamps:
- For a given review year, the sum of issuances authorized to ineligible cases, overissuances authorized to eligible cases, and underissuances authorized to eligible cases, equals the total amount of erroneous issuances authorized. Divide the total erroneous issuances authorized by the total amount of issuances authorized to all Food Stamp cases completed in the review sample. The resulting quotient is the county Food Stamp Program Payment Error Rate.
- .3 In order to validate the County Performance Sample, CDSS shall select and review a sample of cases completed by county staff. The sample shall include, at a minimum, 100% of the federal sample cases. The sample size and type of additional reviews shall be determined by CDSS. A county's review findings may change based on CDSS review and possible difference findings in County Performance Sample cases.
- .31 A Performance Sample County shall have five (5) working days from the date of receipt to dispute each difference finding identified by CDSS in a County Performance Sample case completed by county staff.
- .4 Performance Sample Counties shall submit monthly and daily Food Stamp issuance report tapes in an automated format and time frame determined by CDSS for automated Food Stamp sample selection.
- .5 Within allocated resources, Performance Sample Counties may be required to perform special data collection activities as part of the County Performance Sample case review.

- .6 Counties exempt from the Performance Sample process (see Section 15-310.1) may at the discretion of CDSS have a Small County Performance Sample performed by CDSS to provide additional information to include in a statewide data base.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 15200.4, Welfare and Institutions Code.

Amend Section 15-510 to read:

15-510 DISTRIBUTION OF FEDERAL INCENTIVE PASS-ON

15-510

- .1 A portion of any AFDC-FG/U or Food Stamp Program federal incentives shall be allocated among ~~quality control monitored~~ Performance Sample ~~Counties~~ where the ~~federal performance measure~~ County's program payment error rate is below the federal ~~performance standard~~ tolerance level. The allocation shall be based on a methodology comparable to that used by the federal government in calculating the incentive payment.
- .2 The amount of the federal incentive subject to pass-on is equal to the percentage of statewide ~~expenditures~~ payments attributable to the ~~quality control monitored~~ Performance Sample ~~Counties~~ multiplied by the amount of the federal incentive.
- .3 Upon receipt of a federal incentive payment, ~~§§§§~~ CDSS shall issue ~~quality control monitored~~ Performance Sample ~~Counties~~ their share of the payment within 60 days.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 15-621, .1, .2, and .3; renumber Section 15-621.422 to 15-621.411 and amend; move existing 15-621.42 and .421 to follow 15-621.411 and amend; renumber existing Section 15-621.423 to 15-621.421 and amend; renumber existing Section 15-621.424 to Section 15-621.422 then amend and reformat; and amend Sections 15-621.5, .6 and .7 to read:

15-621 FEDERAL SANCTION PASS-ON

15-621

- .1 A portion of any AFDC or Food Stamp sanction imposed on the state by the federal government is subject to pass-on to those ~~quality control monitored~~ Performance Sample Counties whose ~~federal performance measure~~ payment error rate exceeded the federal performance standard tolerance level (see Section 15-110 (f)) during the federal fiscal year for which the sanction was incurred. However, for purposes of this section, a federal sanction pass-on amount shall not include any portion of an imposed federal sanction which results from any differences in state and federal program requirements.

/11 The first annual periods for which sanctions shall be applicable are October through September 1980/81 for the AFDC program and October through September 1989/90 for the Food Stamp program/

- .2 The ~~payment error rate performance standard~~ federal tolerance level used for pass-on of sanction liability shall be the national ~~performance standard~~ tolerance level established by the federal government. ~~as specified below/~~

/11 The AFDC program performance standard for the period October 1980 through September 1983 shall be the standard contained in the Labor, Health and Human Services, and Education Appropriations Act of 1980 (HR 4389, August 2, 1979, P. L. 96-86 Section 3101 (j), P. L. 96-123 Section 101 (d) and P. L. 96-38 Section 201) for the period October 1983 through September 1990, the standard shall be the standard contained in the Tax Equity and Fiscal Responsibility Act of 1982 (P. L. 97-248) for the period October 1990 onward, the standard shall be the standard contained in the Omnibus Budget Reconciliation Act of 1989 (P. L. 101-239)/

/22 The Food Stamp program performance standard for the period October 1982 through September 1983 shall be the standard contained in the Food Stamp Act of 1977 (P. L. 100-439) for the period October 1983 and onward, the standard shall be the standard as provided for in the Hunger Prevention Act of 1988 (P. L. 100-439)/

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123 CHART OF FEDERAL ERROR RATE PERFORMANCE STANDARDS

October 1980/September 1981	4/0% NONE
October 1981/September 1982	4/0 NONE
October 1982/September 1983	4/0 9/00%
October 1983/September 1984	3/0 7/00
October 1984/September 1985	3/0 5/00
October 1985/September 1986	3/0 11/39
October 1986/September 1987	3/0 11/27
October 1987/September 1988	3/0 10/97
October 1988/September 1989	3/0 10/80
October 1989/September 1990	3/0 1cY
October 1990/September 1991	1bY 1cY

- 1a) The Omnibus Budget Reconciliation Act of 1989 waived all AFDC sanctions from October 1980 through September 1990.
- 1b) 4/0 of the national average (whichever is higher). This standard is also in effect for subsequent periods.
- 1c) Standard is the lowest national average to date plus one (1) percentage point. Standard will not be higher than 10/80%

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.3 Federal Sanction Subject to Pass-on

In recognition of the fact that the quality control monitored Performance Sample counties do not account for all statewide AFDC dollar payment or Food Stamp allotment issuance errors, a portion of the federal sanction shall not be passed on to the quality control monitored Performance Sample counties. The amount of the federal sanction subject to pass-on is equal to the percentage of statewide AFDC expenditures payments or Food Stamp allotment issuances authorized that are attributable to the quality control monitored Performance Sample counties, multiplied by the amount of the federal sanction.

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Example: If the quality control monitored Performance Sample counties accounted for 980 percent of the statewide AFDC expenditures payments of federal funds and the AFDC federal sanction was \$1,000,000, the federal sanction subject to pass-on would be \$9800,000 (\$1,000,000 x 0.980).

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.4 Calculation of Federal Sanction Pass-On Amounts

The amount of a federal sanction which shall be passed on to any given county is equal to the lesser of the following .41 or .42:

- .41 The amount of misspent federal funds above the federal performance standard tolerance level in that county. See Section 15-621.421 of To determine the amount of misspent federal funds, multiply the excess error rate for each applicable county times that county's total federal payments for the review year.

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.41122 Example: Assume four counties exceeded a performance standard tolerance level of 4.0 percent:

1	2	3	4	5
County	<u>Performance Measure Error Rate</u>	<u>Amount Above Performance Standard Tolerance Level</u>	<u>Federal Funds Expended by County</u>	<u>Misspent Federal Funds Above Performance Standard Tolerance Level</u>
A	6.0%	2.0%	\$1,000,000	\$20,000
B	7.0	3.0	3,000,000	90,000
C	6.0	2.0	4,000,000	80,000
D	8.0	4.0	<u>2,000,000</u>	<u>80,000</u>
			\$10,000,000	\$270,000

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- .42 The county's proportionate share of the federal sanction subject to pass-on See Section 15-621.423 below.

.421 Misspent federal funds above the federal performance standard

423 Proportionate share of the federal sanction subject to pass-on

When the federal sanction subject to pass-on is less than the total amount of misspent federal funds above the performance standard tolerance level for all quality control monitored Performance Sample ~~Counties~~ with federal performance measures error rates above the federal performance standard tolerance level (\$270,000 in example .411 above), a ratio shall be developed to determine the county share of the federal sanction.

The ratio is equal to the amount of each county's misspent federal funds above the performance standard tolerance level if any (see Section 15-621.41), divided by the total amount of misspent federal funds above the performance standard tolerance level for all quality control monitored Performance Sample ~~Counties~~. The ratio for each individual county is then multiplied by the amount of the federal sanction subject to pass-on. The product of this multiplication is the county's proportionate share of the federal sanction.

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.4224 Example: Assume the federal sanction subject to pass-on is \$250,000 and four counties have error rates above the 4.0 percent performance standard tolerance level.

1	2	3	4	5	6	7
County	<u>Performance Measure Error Rate</u>	<u>Amount Above Performance Standard Tolerance Level</u>	<u>Federal Funds Expended by County</u>	<u>Misspent Federal Funds Above Performance Standard Tolerance Level</u>	<u>Ratio</u>	<u>Proportionate Share</u>
A	6.0%	2.0%	\$1.0M	\$ 20,000	.0741	\$ 18,525
B	7.0	3.0	3.0	90,000	.3333	83,325
C	6.0	2.0	4.0	80,000	.2963	74,075
D	8.0	4.0	2.0	80,000	.2963	74,075
				\$270,000	1.000	\$250,000

The ratios in column 6 were obtained by dividing the individual county amounts in column 5 by the total of column 5. These ratios are then used to allocate the \$250,000 federal sanction subject to pass-on into the proportionate share in column 7.

Because the federal sanction subject to pass-on is less than the total misspent federal funds above the performance standard tolerance level for all quality control monitored Performance Sample Counties (see column 5), each county's proportionate share of the federal sanction is less than the amount of that county's misspent federal funds above the federal performance standard tolerance level. The amounts contained in column 7 would be the amounts passed on to the counties.

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.423 FEDERAL SANCTION PASS-ON PROCESS

- I. Does the county's ~~point estimate~~ annual program payment error rate exceed the ~~performance standard~~ tolerance level? (15-1210(f)(2)) ----No----> No federal sanction pass-on
- Yes
- II. Multiply the excess program payment error rate times the amount of federal funds expended by the county (15-621.41) (Column 3 value x Column 4 value = Column 5 value)
- III. Total the amounts determined in Step II for all applicable counties.
- IV. Is the federal sanction subject to pass-on less than the total amount in Step ~~III~~ (15-621.42)? --No--> The county's federal sanction pass-on is equal to the amount in Step II
- Yes
- V. Divide the amount in Step II by the amount in Step III. (15-621.42) (County's column 5 value divided by the total of column 5 = column 6 value)
- VI. Multiply the ~~amount~~ value in Step V times the federal sanction subject to pass-on (15-621.42) -----> The county's federal sanction pass-on is equal to amount in Step VI. (Column 6 value x the total of federal sanction subject to pass-on

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.5 Application of Federal Sanction Pass-On

.51 §CDSS shall notify the county in writing if it is determined that a federal sanction pass-on will be imposed.

.52 (Continued)

.53 No sanction shall be applied during the appeal filing period provided in Section 15-621. ~~§172~~ or until the §CDSS has made a decision on the county's appeal.

.54 (Continued)

.55 When a federal ~~f~~Food ~~§~~Stamp sanction pass-on is imposed, the amount of the sanction shall be applied by reducing the federal share of the county's reimbursable Food Stamp administrative costs.

.6 Appeals of the Federal Sanction

(Continued)

.61 Disasters which:

.611 Require the diversion of a significant number of personnel normally assigned to the processing of AFDC or ~~f~~Food ~~§~~Stamp cases.

.612 (Continued)

.62 Strikes or work actions by welfare staff or other personnel necessary to the processing of the AFDC or ~~f~~Food ~~§~~Stamp cases.

.7 Appeal of the Federal Sanction Pass-On

If the federal sanction is actually withheld by the federal government, counties that are potentially subject to a pass-on shall be notified in writing by §CDSS. A county may appeal a federal sanction pass-on based upon circumstances related to the state-county relationship.

.71 through .73 (continued)

.74 Counties shall be notified of any amounts that have been reduced or eliminated. The appropriate amount shall be passed on pursuant to Sections 15-621.1 through .4 less the amount reduced ~~in Section 15-~~
~~§21/82.~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239) and Sections 10553, ~~and~~ 10554, 15200.4, and 18905, Welfare and Institutions Code.

UPDATED INFORMATIVE DIGEST

The California Department of Social Services (CDSS) is required by Sections 15200.4 and 18905 of the Welfare and Institutions Code to pass on federal Aid to Families with Dependent Children (AFDC) and Food Stamp sanctions to counties which are assessed because of errors in processing AFDC and Food Stamp Program cases. In order to comply with the law and to minimize the chance of a sanction being assessed, CDSS is restructuring the QC review process. In addition, the revised process will assist CDSS in determining if the goal of recipient self-sufficiency is being attained. The proposed regulations add, amend, and repeal certain manual sections to incorporate the restructured review process, new definitions and updated terminology.

Subsequent to the public hearing on May 17, 1995, the Department made several technical or substantive related changes to the proposed regulations. The complete text of the regulations as modified was made available for 15 days for public comment.

FINAL STATEMENT OF REASONS

a) Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations Are Intended to Address

The California Department of Social Services (CDSS) is required by Welfare and Institutions Code Sections 15200.4 and 18905 to pass-on federal Aid to Families with Dependent Children (AFDC) and Food Stamp sanctions to counties which are assessed because of errors in processing AFDC and Food Stamp Program cases. To comply with the law and to minimize the chance of a sanction being assessed, CDSS is restructuring the Quality Control review process. In addition, the revised process will assist CDSS in determining if the goal of recipient self-sufficiency is being attained. The proposed regulations add, amend, and repeal certain manual sections to incorporate the restructured review process, new definitions and updated terminology.

b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations are NecessarySection 15-101Specific Purpose:

This handbook section is being adopted to incorporate formatting consistent with other CDSS manual sections by adding general information on the purpose and scope of the County Performance Sample.

Factual Basis:

The adoption of this handbook section is for general information regarding the purpose and scope of the County Performance Sample and is non regulatory.

Final Modification:

In response to testimony received at public hearing, CDSS has added a reference to Section 15-310.5 for clarification. Also, it has been clarified that the performance areas to be reviewed may include, the areas listed.

Section 15-102Specific Purpose:

This section is being adopted to specify state and county responsibilities. CDSS has oversight responsibility for the County Performance Sample, selects and integrates the sample cases, reviews a sample of county reviews, and maintains the computer software for the County Performance Sample. Performance Sample Counties are responsible for federal and additional county sample case reviews and submitting completed cases to CDSS within state established timeframes.

Factual Basis:

The adoption of this section is necessary to specify the responsibilities of CDSS and the county in the restructured quality control system.

Final Modification:

In response to testimony received at public hearing, CDSS has added subsection .17 to clarify that CDSS will continue to conduct the review of federal AFDC and food stamp negative action cases.

Sections 15-110 a. through z. (Renumbered from Section 15-120)

Specific Purpose:

This section is being renumbered from Section 15-120 and reformatted to be consistent with other CDSS manual sections. In addition, the following specific changes were made: 1) Sections a.(1) and f.(1), (2), (4) and (5) are revised for clarity and to exclude language not essential to the definition; 2) Definitions are added for clarity and because of terminology changes under the new process, for "CDSS", "County Performance Sample", "Error Rate", "Federal Sample Case", "Ineligibles", "Overissuance", "Overpayment", "Payment Error Rate", "Small County Sample", "Performance Sample County", and "Underissuance", 3) Definitions are deleted because of the terminology changes under the new process for "Federal Review Year", "Non-Quality Control Monitored County" and "Quality Control Monitored County"; and 4) "SDSS" is deleted and "CDSS" is added because of the Department's designation change from State Department of Social Services to California Department of Social Services.

Factual Basis:

This amendment is necessary for clarity and to conform to the County Performance Sample review process.

Final Modification:

In response to testimony received at public hearing, CDSS has clarified: the definition of "AFDC Program Payment Error Rate" (Section a. (1)) by adding payments to ineligible cases, rather than simply ineligible; and the definition of "Food Stamp Program Payment Error Rate" (Section f. (3)) by adding issuances to ineligible cases, rather than including this classification in "overissuances".

Sections 15-310.1 through 15-310.4

Specific Purpose:

Existing Sections 15-310.1 through .4 are being repealed and new Sections 15-310.1 through .6 are being adopted to establish the new quality control error identification process. The provisions contained in this section explain the actual review and re-review requirements, as well as the sampling requirements to be used. It specifies the formula for determining county program error rates and establishes county completeness and timeliness requirements for federal and county sample cases. Reformatting is done for clarity and ease of use.

Factual Basis:

These amendments are necessary to implement County Performance Sample provisions. The time frames specified in .13 and .31 are necessary to meet federal case transmission requirements. The terminology "substantial" rather than "failure" is consistent with Welfare and Institutions Code Section 10605 and CDSS Manual of Policies and Procedures Section 12-800.

Final Modification:

In response to testimony received at public hearing, CDSS has clarified: Section 310.11 by specifying that there are 19 Performance Sample Counties; Section 310.12 by specifying that sample reviews are what must be completed within federal and state QC regulation standards; Section 310.131 (reformatted to .131 and .132 so it is easier to read) by specifying that shorter processing periods are imposed by the federal agencies and specifying the time frame that determines the due dates; Section 310.3 by specifying that it is the counties' review findings, not their error rate, that may change based on rereview by CDSS and that CDSS will rereview 100% of the federal sample cases; Section 310.31 by changing "calendar" to working days and deleting the last sentence in order to give the counties a minimum of five days to dispute differences; and .6 is revised to correct a reference from 15-305.1 to 310.1.

Sections 15-510.1 through .3

Specific Purpose:

These sections are being amended to change "quality control monitored counties" to "Performance Sample Counties", "performance measure to error rate", "performance standard to tolerance level", and "SDSS to CDSS". Also, outdated material is deleted.

Factual Basis:

This amendment is necessary for clarity and to update terminology to be used in the County Performance Sample.

Final Modification:

In response to testimony received at public hearing, CDSS has revised Section 510.1 by adding program payment to error rate and will retain the last sentence, which specifies that the method used to allocate the incentive pass-on is comparable to that used by the federal government.

Section 15-621.1

Specific Purpose:

This section is being amended to change "quality control monitored counties" to "Performance Sample Counties", "performance measure" to "error rate", and "performance standard" to tolerance level. Also, outdated material is deleted.

Factual Basis:

The amendment is necessary for clarity and to update terminology to be used in the County Performance Sample.

Final Modification:

For consistency with other Division 15 regulations, CDSS added program payment to error rate.

Section 15-621.2

Specific Purpose:

This section is being amended to change "payment error rate performance standard" to "federal tolerance level" and to delete all references to prior year standards as they are no longer applicable due to federal law changes. The general statement that the federal government establish the tolerance level is retained.

Factual Basis:

The amendment is necessary for clarity, ease of use, and to update terminology to be used in the County Performance Sample.

Section 15-621.3

Specific Purpose:

This section is being amended to change "quality control monitored counties" to "Performance Sample Counties" to "issuances authorized", "dollar" to "payments", and "expenditure" to "payment".

Factual Basis:

The amendment is necessary for clarity and to update terminology to be used in the County Performance Sample.

Section 15-621.4

Specific Purpose:

This section is being amended to change "performance standard" to "tolerance level", "performance measure" to "error rate" and "quality control monitored counties" to "Performance Sample Counties". Reformatting and renumbering are being done for clarity and ease of use.

Factual Basis:

The amendment is necessary for clarity and to update terminology to be used in the County Performance Sample.

Final Modification:

In response to testimony received at public hearing, CDSS has revised Section 15-621.423 by changing "point estimate annual" to program payment error rate for consistency with other Division 15 regulations.

Sections 15-621.5 and .6

Specific Purpose:

These sections are being amended to change SDSS to CDSS and to capitalize "Food Stamp" to be consistent with other manual sections.

Factual Basis:

The amendment is necessary to update terminology to be used in the County Performance Sample and for consistency.

Final Modification:

In response to testimony received at public hearing, CDSS has corrected a reference in Section 15-621.53 that was inadvertently not revised previously.

Section 15-621.7

Specific Purpose:

This section is being amended to change SDSS to CDSS and to delete an erroneous reference that was overlooked in the last revision to this manual.

Factual Basis:

The amendment is necessary to update terminology to be used in the County Performance Sample and for clarity.

c) Identification of Documents Upon Which Department Is Relying

Sections 10553 and 10554 of the Welfare and Institutions Code

Sections 18905 (Food Stamps) and 15200.4 (AFDC) of the Welfare and Institutions Code.

d) Testimony and Response

These Quality Control (QC) Review Process revisions were considered at the Department's May 17, 1995 public hearing. No testimony was presented orally at the public hearing. Five (5) county welfare departments submitted written comments during the forty-five (45)-day public comment period.

1. County of Orange Social Services Agency (COSSA)
2. Stanislaus County Department of Social Services (SCDSS)
3. County of Los Angeles Department of Public Social Services (LADPSS)
4. County of Riverside Department of Public Social Services (CRDPSS)
5. Contra Costa County Social Services Department (CCCSSD)

Each county's comments have been summarized below followed by the Department's response to each comment in the sequential order established by the regulation section being discussed.

Section 15-101.2

1. Comment:

SCDSS and LADPSS questioned how the performance areas listed in .21 through .26 are to be measured. LADPSS recommended that the regulations provide more detail on the performance measurement areas. LADPSS also wanted to know if penalties will be established. SCDSS pointed out that only error rate is described in the regulations. This county asked "...How are these other areas to be measured? Who will perform these measurements? Will sanctions/incentives be linked to these performance areas?..."

Response: The philosophy contained in this handbook section speaks to the desired versatility of quality control (QC) in the future. With various welfare reform options under consideration the restructured QC system (County Performance Sample (CPS)) must be flexible enough to respond to anticipated data needs not currently within the scope of the more rigidly defined federal QC process. The scope of the QC process may change in the future based on welfare reform changes and it is impossible to detail in this section how the performance areas indicated in this section are to be measured. However, all data collection activities associated with the performance areas listed must be conducted within resources currently allocated to counties, as specified in section 15-310.5. This indicates that additional review activities can not be added to county review responsibilities absent the elimination of lower priority data collection activities. To do otherwise would compromise the quality and timeliness of federal reviews and increase the likelihood of regressed federal differences.

In regards to the linking of sanctions or incentives to the listed performance areas, Division 15 provides for sanctions and incentives for error rate performance only. There is no statutory authority to apply sanctions or incentives for the other performance areas listed in this section.

No revision has been made to this section in response to the above referenced testimony.

1A. Comment:

CCCSSD provided the following recommendation and comment:

"...'The California Department of Social Services (CDSS) is committed to achieving performance outcomes that improve the AFDC and Food Stamp programs. To measure these outcomes, counties will conduct case reviews of a randomly selected sample, subject to the provisions of 15-310.5. The performance areas to be reviewed may include, but are not limited to:"

"The revised wording helps ensure that counties review only activities that are funded and for which workload consideration has been obtained; and (by adding 'may') allows the performance areas listed to be reviewed, but does not require they be reviewed, in the event that CDSS priorities change."

Response: We agree and have added the additional language as suggested.

1B. Comment:

CRDPSS recommended that Section 15-101.2 address the concern of staff funding for the additional duties assigned to QC staff as a result of the potential and future changes in workload.

Response: The additional language added to this section as suggested by CCCSSD in Comment 1A. satisfies this concern. Therefore, no additional revisions have been made to the section in response to this testimony.

Section 15-102

2. Comment:

LADPSS pointed out that the proposed regulations do not specify that CDSS will continue to perform negative case action reviews. "...This should be stated in the regulations...."

Response: We agree and have added language to specify that CDSS will perform reviews of AFDC and Food Stamp negative action cases.

Section 15-110a.(1) (renumbered from 15-120(a)(1))

3. Comment:

CCCSSD recommended the following revision "...AFDC Program Payment Error Rate means the total AFDC-FG/U overpayments and ineligibles in the review sample, minus any Federal regression penalties and minus any amounts due to differences in state and federal program requirements, divided by total payments to completed cases in the review sample for the review year."

"The revised wording: aligns this definition with suggested changes in 15-621.3 that exclude counties from liability for penalties resulting from Federal re-review findings (other than replacement of correct dollars paid and correct error dollar amounts); and aligns this definition with existing language in 15-621.2, excluding state/federal differences findings in computing the Program Payment Error Rate." Also, SCDSS suggested that the regulations could be clarified by using the phrase "payments to ineligible cases, rather than simply ineligible."

Response: The definition provided in this section indicates that a county's AFDC Program Error Rate is calculated by dividing total overpayments and payments to ineligible cases by the total payments to all completed cases in the review sample for the review year. A county's AFDC Program Payment Error Rate is established using only specific case review and rereview findings. There is no intent to calculate a county's AFDC Program Payment Error Rate using regressed federal findings. Since this definition does not include application of federal regression in the determination of a county's AFDC Program Payment Error Rate, no revision is made to the section in response to this testimony.

For clarity, we agree with the county's suggestion to add "payments to ineligible cases" to the definition.

Section 15-110f.(3)

4. Comment:

CCCSSD submitted the following recommendation for revising the proposed regulation followed by comments justifying the recommended revisions:

"Comments: Revise as follows:

"'Food Stamp Program Payment Error Rate' means the sum of overissuances and ineligibles authorized in the review sample, minus any federal regression penalties and minus any amounts due to differences in state and federal program requirements, divided by total issuances authorized to completed cases in the review sample for the review year."

"The revised wording: adds payments to ineligibles as part of the error rate computation; aligns this definition with suggested changes in 15-621.3, exempting counties from liability for penalties resulting from Federal re-review findings (other than replacement of correct dollar amounts authorized and correct error dollar amounts); and aligns this definition with existing language in 15-621.1, excluding state and federal differences findings in computing the Program Payment Error Rate.

"In addition, this revised wording excludes underissuances from consideration in computing the Program Payment Error Rate. Underissuances do not meet the definition of 'misspent Federal funds' in 15-621.4. CDSS has been a leader among states in advocating for this change at the Federal level and has the opportunity now to demonstrate its commitment to improving the integrity of the Quality Control process by implementing its own suggestion."

Response: (a) We agree with the county's suggestion to add "issuances to ineligible cases" to the definition.

(b) Regarding the county's suggestion of add "minus any federal regression penalties and minus any amounts due to differences in state and federal program requirements" please refer to our response to comment #3.

(c) Regarding the county's suggestion to delete underissuances from the definition we believe that it must remain because the federal agency uses underissuances as a program performance measurement, and may sanction the state based on poor performance in this area. Since the definition must be consistent with federal requirements, no revision has been made to the section in response to this testimony. If in the future the federal agency deletes underissuances from the calculation of the state's Food Stamp Program Payment Error Rate, action will be taken to revise this section consistent with the county's suggestion.

4A. Comment:

CRDPSS submitted the following comment:

"Riverside County does acknowledge that the above definition is the same as is currently used in the federal guidelines for Quality Control. However, we believe that this distorted method of calculating the payment error rate must

not be applied to the counties subject to the QC review process. Use of underissuance in the calculation places the counties in a 'double jeopardy' situation where the value of the underissuance, in essence, is higher than that of an overissuance. To correct the inequity, one would need to add in the value of the underissuance to the total issuances authorized for the review month, before an equitable balance was realized. Wording needs to reflect the above."

Response: Please refer to our response (c) to comment #4.

4B. Comment:

SCDSS submitted the following comment on Section 15-110(f)(3):

"This section neglects to mention issuances to ineligible cases as part of the Food Stamp Program Error Rate."

Response: We agree and have revised the definition for clarity as suggested.

4C. Comment:

COSSA provided the following recommendation:

"The Food Stamp error rate calculations set forth in 15-110.f.(e) and 15-310.22 should be aligned with the AFDC error rate calculation. Only overpayments and ineligibles should be considered. Underissuances should be excluded as they do not meet the definition of misspent dollars as referenced in 15-621.4."

Response: Please refer to response (c) to comment #4.

Sections 15-110o.(1), o.(2) and u.(1)

5. Comment:

CRDPSS requested clarification of these sections by adding the phrase "using federal QC guidelines" to each section.

Response: It is commonly understood among state and county QC staff that the definitions in question are in every way consistent with federal QC requirements. The suggested language would not provide any clarification. No revision has therefore been made to the section in response to this testimony.

6. Section 15-110p.(1)

Comment:

LADPSS stated that the definition of "Performance Sample County" should specify the number of participating counties.

Response: The number of counties participating in the CPS is not relevant to the definition of CPS. Based on other county testimony, Section 15-310.11 has been revised to indicate the number of counties constituting the CPS. No revision has therefore been made to the section in response to this testimony.

Section 15-310

7. Comment:

LADPSS submitted the following suggestions for changes to the proposed regulations:

"The regulations should specify the number of Performance Sample Counties and state that CDSS will conduct the case sample reviews in Los Angeles County.

"The regulations state that CDSS will perform re-reviews to validate the accuracy of county sample reviews. They further specify that county error rates may be changed based on the re-review results. The regulations should clarify whether this involves adjustments to individual case findings or adjustments to county overall error rates through the application of a regression formula.

"The regulations should also specify that, at a minimum, CDSS will re-review all federal case samples.

"Additionally, the regulations state that counties may be required to perform special data collection activities. Counties should be told what this may entail since this may generate significant workload increase."

Response: (a) (1) As suggested, Section 15-310.11 has been revised to indicate the number of counties participating in the CPS. (2) The CPS concept is designed to include the largest counties which expend 90% of the annual AFDC expenditures. Counties within this definition have been notified of their participation by ACL 95-04, dated January 27, 1995. Because of the limited funds to implement CPS, Los Angeles will not perform QC reviews. It has been excluded as allowed by 15-310.11. There may be a decision at a future date to provide funds to the county for staff and equipment to do CPS reviews. If the state is specifically identified as responsible for performing Los Angeles CPS reviews in this section as LADPSS recommends, a regulation revision would be required to transfer responsibility if at a later date funds are provided to the county for staff and equipment to perform CPS reviews. Therefore, no revision has been made in response to the county's suggestion that the section specify that CDSS be responsible for reviews in the county.

(b) We agree and have changed Section 15-310.3 to specify that changes will be made to specific review findings. This change in conjunction with the existing program payment error rate definition (15-310 A. (1) and F. (3) makes clear that no regression will occur.

(c) We agree with the county's suggestion regarding the addition of wording specifying that CDSS will review 100% of federal sample cases. Section 15-310.3 is revised to read as follows:

In order to validate the County Performance Sample, CDSS shall select and review a sample of cases completed by county staff. This sample shall, at a minimum, include 100% of the federal sample cases. The sample size and type of additional reviews shall be determined by CDSS. A county's review findings may change based on CDSS review and possible difference findings in County Performance Sample cases.

(d) The scope of the QC process may change in the future based on welfare reform changes, however, all data collection activities must be conducted within resources currently allocated, as specified in Section 15-310.5. This indicates that additional review activities can not be added to county review responsibilities absent the elimination of lower priority data collection activities.

Section 15-310.11

8. Comment:

SCDSS felt that the wording in subsection .11 should be more specific. "The meaning of the 'top 90%' is open to interpretation. A more specific description might be 'larger counties whose total caseloads constitute 90% of the state's annual AFDC expenditures'."

Response: Section 15-310.11 has been revised to indicate the number of counties participating in the CPS. Further, the CPS concept is designed to include the largest counties which expend 90% of the annual AFDC expenditures. Counties within this definition have been notified of their participation by ACL 95-04, dated January 27, 1995.

Section 15-310.12

9. Comment:

SCDSS felt that subsection .12 is ambiguous as written, and at the least is repetitious of subsection .1.

"This section is ambiguous. Is it cases which shall be within standards, or case reviews? Either way, this section seems to simply repeat the language under .1."

Response: We agree and have revised this section for clarification.

Section 15-310.13

10. Comment:

CCCSSD stated that the wording in subsection .13 is contradictory . "...one deadline is specified in the first sentence and another in the second...." The county recommended the following revision:

"All federal sample and additional county sample case reviews shall be completed and transmitted by county staff to the appropriate CDSS district office by the 80th calendar day following the date sample lists are received by county staff, or by the 80th calendar day from the 1st day of the month following the sample month, whichever is later."

Response: The first sentence of this section specifies the time limits to complete case reviews. The second sentence specifies when the time period begins. No revision has therefore been made to the section in response to this testimony.

10A. Comment:

SCDSS provided the following comment regarding the 80-day review period:

"The 80-day review period is described in two different ways. The first sentence simply states that it is to begin on the date that the sample list is received by the county. The second sentence of this section gives this option, as well as one to begin on the 1st day of the month following the sample month, whichever is later. The second sentence contains the correct language."

Response: Please refer to our response to comment #10.

Section 15-310.131

11. Comment:

CCCSSD suggested the following revision to subsection .131 and commented extensively on their justification:

"Federal cases selected subsequent to each original monthly sample to satisfy federal sampling requirements, and all Federal September sample month cases, shall be subject to Federal time frames for completion and submission."

"...Contra Costa has done extensive research on the 'secondary file' referenced in this section. We believe it is impossible to complete county cases selected in the secondary file in the time frames specified in .131. All county cases should be subject to the time frames in .13. The number of cases in this secondary file is estimated to be significantly higher (15-19% or more of the sample universe) than the state's original estimate (13%) for Food Stamps. The CPS Counties will select a total of about as many cases in this secondary file per month as the state is used to completing from this file in a year, and CDSS may thus have underestimated the difficulty of complying with this regulation as written.

"Furthermore, there is no reason to set such an arbitrary and impossible-to-meet standard for county cases. We understand the need to complete Federal cases within Federally established time frames. It is, moreover, our intention to adhere to .13 deadlines as well. While our first preference would be to have completely exclude county cases from the secondary file, we recognize the state's intention in configuring the secondary file to include such cases. Under no circumstances, though, should counties be (or need they be) held to this regulation for county cases, especially in light of the regulation immediately following .131, which declares a county can be found to be in 'substantial noncompliance' for 'chronically missing state established deadlines'."

Response: We agree with the county's suggestion and have revised .131 and have added .132 as follows:

.131 September sample cases, which are subject to shorter processing periods imposed by federal agencies, shall be completed and transmitted to the appropriate CDSS district office by the 5th of the month that precedes the month September cases are transmitted to federal agencies.

.132 Cases selected subsequent to each original monthly sample to satisfy federal sampling requirements shall be completed and transmitted to the appropriate CDSS district office by the 10th of the month those cases are due for transmission to the federal agencies.

11A. Comment:

CRDPSS submitted the following:

"...Riverside County disagrees with a shortened deadline for completion of the September sample month cases. Throughout the audit year, the state has built in considerable time for the re-review of the federal cases included in the county performance sample. We are recommending this section be specific as to the amount of reduced time, applying a reduced re-review period to state QC staff as well. Additionally, consideration must also be given to counties when or if their 'supplemental sample' includes more than one case per audit month. Additionally, supplemental sample cases need only apply to federal sample cases...."

Response: Please refer to our response to comment #11.

11B. Comment:

SCDSS submitted the following:

"The shorter time frames mentioned here are not described. How short? There needs to be a qualification either here and/or in Section .14 that noncompliance by a Performance Sample County shall not be based on missing these extraordinary deadlines."

Response: Please refer to our response to comment #11.

Sections 15-310.2 and .22

12. Comment:

CRDPSS submitted the same comments on these sections as those presented on Section 15-110(f)(3). See comment #4A.

Response: Please refer to our response to comment #4.

Section 15-310.3

13. Comments:

Two counties submitted comments and suggested revisions to the proposed regulation. Apparently both counties suggested the same essential revision. However, both counties' comments and suggestions are presented her verbatim:

CCCSSD:

"...In order to validate the County Performance Sample, CDSS shall select and review a sample of cases completed by county staff. The sample size and type shall include 100% of the federal sample cases. The number and type of county

cases in the sample shall be determined by CDSS. A county's error rate may change based on CDSS review and possible state differences in findings in County Performance Sample cases."

"The revised wording: aligns this regulation with 15-102.14; and differentiates between state differences (where the county changes its findings based on state re-review) and state/federal differences."

CRDPSS:

"...In order to make the wording of this section uniform with the wording in 15-102.14 above, this section must read as follows:

'In order to validate the County Performance Sample, CDSS shall select and review a sample of cases completed by county staff, including 100% of federal sample cases.'..."

Response: Please refer to our response (c) to comment #7.

Section 15-310.31

14. Comment:

CRDPSS submitted the following comment and recommendation:

"...Riverside County questions the necessity of the potential reduction of the five-day period for those cases that were originally processed in more than the 80 days specified in 15-310.13. The potential for state interpretation of this section is too broad. CDSS and counties must put the accuracy of the findings before the county completion deadlines. The cited section does not include those cases identified in 15-310.131; those cases for which the strictest deadlines are applied, where the potential for the need of shortened deadlines is greater.

"As an alternative, we are recommending that wording be placed into this section that would require state and county interaction DURING the review process on those cases where the reviews cannot be completed prior to the 80 day deadline, to assure each work group's early involvement with potential problems that may occur during the review process. Counties must ALWAYS be allowed sufficient time (five days minimum) to respond to any CDSS found differences...."

Response: The reduction of the appeal period from 10 days to five days was agreed to by the State/County QC Restructuring Advisory Group. The reduction was made on the assumption that by virtue of county staff now completing all case reviews they would have a greater familiarity with the case circumstances and therefore need less time to resolve appeals. Furthermore, the appeal period was reduced to allow counties an additional five days for case review processing. While we agree with county's intent to strengthen state/county interaction during the case review process, we do not believe regulations is the proper place to accomplish this. No revision has therefore been made to the section based on this testimony.

We agree with the county's suggestion regarding a five day minimum appeal period to and have deleted the last sentence in the section.

14A. Comment:

COSSA was opposed to the five calendar day response period to dispute differences.

"15-310.31 identifies a five calendar day response period to dispute a difference. This is an unreasonably insufficient period. We currently have 10 days and even that is difficult to meet in some situations. We request retention of the current 10 day dispute period or even an extension to 15 days."

Response: Please refer to our response to comment #14.

14B. Comment:

SCDSS:

"Five (5) calendar days from the date of receipt to dispute a difference finding is not enough time. A long weekend or a busy mail room (around the first of the month with SAWS 7's coming in) might easily mean that the person designated to respond would not even receive the difference notice until after the deadline. The need for timeliness is understood, but five (5) working days is the acceptable minimum. FAX or E-mail transmission would be the preferred method."

Response: We agree with the county's suggestion and have revised this section to indicate that the appeal period is five working days.

Section 15-310.4

15. Comment:

SCDSS submitted the following comment/question:

"Why specify 'tapes' in regulation? It is my understanding that on-line data transmissions are preferred by this county. They should be much more easily, quickly and cheaply accomplished."

Response: CDSS does not have on-line capability at this time. When and if this communication ability is obtained, the county's suggestion will be evaluated. No revision has therefore been made to the section in response to this testimony.

Section 15-310.5

16. Comment:

CRDPSS submitted the following recommendation:

"...State consideration of Quality Control job tasks, and subsequent staff allocations/funding, must be included prior to assignment of any additional data collection activities. Recommend wording to reflect cost analysis to counties when any additional activities are required."

Response: We believe that this section, as written, provides the exact safeguards needed to protect counties from the imposition of additional tasks without consideration of existing workload. We agree with the intent of the county's suggestion, however, we believe the county administrative cost allocation process is the proper place to deal with this concern. Also, please refer to our response to comment #1 for additional information. No revision has therefore been made to the section based on this testimony.

16A. Comment:

CCCSSD proposed the following revision with justification:

"If funding and/or workload reduction are obtained by counties from CDSS, Performance Sample Counties may be required to perform additional data collection activities, on cases already selected for the County Performance Sample only, as part of the County Performance Sample case review."

"The revised wording: specifies that counties cannot be required to perform additional activities without additional funding for staffing and/or a reduction in activities to assure there is no net increase in total activities; specifies that counties are not required to collect data on any cases but cases already selected for the County Performance Sample. The initial staffing levels agreed to for implementation of QC restructuring do not allow for the performance of additional activities without additional staffing. Counties participating in the QC Restructuring Task Force did not agree that this level of staffing is necessarily adequate beyond the initial implementation period (state fiscal year 96) and have requested a comprehensive classification study of the County Performance Sample positions."

Response: Please refer to our response to comment #16.

16B. Comment:

SCDSS submitted the following comment/question:

"This possible data collection activity to be required by the state is too vague to be included in regulation. Also, who would decide whether allocated resources can accommodate these extra duties?"

Response: Please refer to our response to comment #16.

Section 15-510

17. Comment:

LADPSS suggested the following:

"The regulations need to more clearly specify how incentives will be distributed to individual Performance Sample Counties. The rules simply specify the method for computing the amount of incentives to be passed-on to all Performance Sample Counties with error rates below the federal tolerance level. The methodology for computing the amount of incentive pass-on for individual counties should be as detailed as for sanction pass-on."

Response: Incentive programs are under consideration by the federal agencies. Until decisions are made regarding federal incentive methodology we can not develop a detailed state methodology. However, in response to the county's suggestion we will retain the last sentence of Section 15-510.1, which will provide a basic distribution methodology.

17A. Comment:

CCCSSD recommended the following revision:

"A portion of any AFDC-FG/U or Food Stamp Program federal incentives shall be allocated among Performance Sample Counties where the county's Program Payment Error Rate is below the federal tolerance level."

"The revised wording provides consistency with definitions Section 15-110 a.(1) and f.(3)."

Response: For consistency, we have made the suggested change.

17B. Comment:

CRDPSS -- "...Clarification is needed to state (1)...the county's performance sample error rate is below the federal tolerance level.

"Riverside County contends that no more than ten (10%) percent of the federal incentive payments should be retained by the state, but must be invested into quality assurance activities or needed county corrective action activities pertinent to the Quality Control review findings. Investment into these activities statewide, will help to insure continued eligibility for federal incentives. Therefore, wording needs to be developed to allow for any federal incentives not passed on to specific counties eligible to pass ons as described in items .1, .2, and .3 above, be provided to other identified counties as described above."

Response: Please refer to our response to comment #17 and #17A.

17C. Comment:

SCDSS commented as follows:

"The proposed incentive pass-on would reward a county equally, whether their error rate was just under the tolerance level or well under it. The formula for incentive pass-on should be similar to the sanction pass-on formula. That is, the amount of federal savings realized (rate below the tolerance times a county's total federal payment), or the county's proportionate share of the incentive, based on the rate below the tolerance."

Response: Please refer to our response to comment #17.

Section 15-510.3

17D.Comment:

SCDSS made the following recommendation:

"CDSS is allowed 60 days to issue Performance Sample Counties their share of the incentive payment. This is too long. By the time an incentive payment is made, there should be no question about county shares. This county suggests five (5) calendar days."

Response: Please refer to our response to comment #17.

Section 15-621.1

18. Comment:

CCCSSD submitted two suggested revisions to the regulations along with their justification for the proposed revisions.

"No county shall be held liable when its Program Payment Error Rate exceeds the federal tolerance level if California's error rate does not result in a federal sanction. A portion of any AFDC or Food Stamp sanction imposed on the state by the federal government is subject to pass-on to those Performance Sample Counties whose Program Payment Error Rate exceeded the federal tolerance level (see Section 15-110 a. and f.) during the federal fiscal year for which the sanction was incurred.

No county shall be held liable for pass on of any federal sanction that is assessed but not actually withheld. If any federal sanction is reduced, the liability of any county subject to federal sanction pass-on shall be proportionately reduced. However, for purposes of this section, a federal sanction pass-on amount shall not include any portion of an imposed federal sanction which results from regression penalties and/or from any differences in state and federal program requirements."

The revised wording: ensures that Program Payment Error Rates will not be used to sanction counties independent of federal sanctions; (by adding "Program Payment") provides consistency with definitions in 15-110 a. and f.; (by adding "a." and striking parentheses in "f.") aligns with the cited section; provide that no pass-on can be implemented before federal sanction amounts are actually withheld by the federal government; and that, if the state succeeds in reducing a federal sanction, counties subject to pass-on will have their liability reduced by the same proportion.

The last revision refers to federal penalties assessed when federal re-review findings are different than state findings. Since the state reviews 100% of federal cases, counties should not be held liable for penalties assessed after the state has approved the county's findings. Correct dollar amounts paid and correct dollars paid in error shall replace those county findings in federal re-reviewed cases; but regression penalties should be the responsibility of the state, since the state confirmed the county's findings as correct when the case was transmitted."

Response: Changes to Section 15-621 only reflect the updating of terminology. No substantive changes were made. Responses to procedural concerns can be clarified within existing regulation language. For instance, there can not be a federal sanction pass-on to a county when the state is not sanctioned. Furthermore, the amount of sanction to be shared among the counties above the federal tolerance level will be the actual amount withheld by the federal agency, less the amount attributed to those counties not participating in the CPS, and less the amount attributed to the federal review differences resulting from differences in state and federal program requirements. No revision has therefore been made to the section in response to this testimony.

Section 15-621.1

18A.Comment:

CRDPSS submitted the following recommendations and comment:

"Final sentence of this section must continue to read as follows:

"...any difference in state and federal program requirements...or errors identifies in the Federal re-review process that were subsequently revised/regressed from original county/state findings."

Riverside County contends that since CDSS found the county's original findings were valid during their review of federal sample cases, counties cannot be held accountable for subsequent reversal of findings by the federal QC reviewers. Counties acted on good faith with state staff as to the correctness of these federal sample cases, and can only be responsible for original case findings."

Response: Please refer to our response to comment #18.

18B.Comment:

LADPSS submitted the comments regarding Section 15.621 and 621.53:

"The regulations continue to hold counties exceeding the federal tolerance level liable for either their proportionate share of the amount of sanction subject to pass-on or the amount of benefits issued in excess of the tolerance level, whichever is lower. Federal sanction rules no longer hold states liable for every dollar issued in excess of the tolerance level. A sliding scale has been implemented which holds states liable for only a percentage of benefits issued above the tolerance level. CDSS should adopt the same methodology for computing sanction pass-on to counties.

Nevertheless, the county continues to oppose the pass-on of any federal sanctions to counties, since this violates the state/county partnership to jointly administer the programs. Pass-on assumes that only counties have responsibility for administering the Program. The State also shares in this responsibility.

Section 15-621.53 states that sanction pass-on imposition will be stated during the appeal period provided in Section 15-621.81. The referenced section is missing from current regulations and should be added."

Response: Please refer to our response to comment #18. Also, the county's observation regarding the Section 15-621.81 is correct. The proper reference is Section 15-621.72. We have made the appropriate correction.

Section 15-621.3

19. Comment:

CRDPSS made the following comment and suggested revision:

"This section as written, does not exclude those portions of the sanctionable errors described in Section 15-621.1 of these draft regulations. Additionally, Riverside County contends that the regressed value of errors from federal re-reviews are not subject to sanction pass-on. Therefore, we recommend this sanction be reworded as follows:

"The amount of the federal sanction subject to pass-on will be those sanction dollars attributable to unregressed errors within the Performance Sample Counties, minus those errors subject to sanction which result from any difference in state and federal program requirements." "

Response: Please refer to our response to comment #18.

Section 15-621.4

20. Comment:

CRDPSS submitted the following comment along with five requested considerations:

"The text of this section speaks to the current method used to process pass-on of federal sanctions to counties. We acknowledge that wording changes apply only to title changes from "state samples" to "county performance sample". However, due to our previous comments, we believe these computations must consider the following reductions when determining the amount of sanction pass-on.

- a. County error rate must be based on the un-regressed, original county performance sample error rate. Revised federal re-review findings must be excluded from the original statewide error rate computation.
- b. Either food stamp underissuances must be excluded, or a method must be determined to eliminate the potential "double jeopardy" created by the reduced dollar of dollars audited.
- c. A minimum of ten (10%) percent of the sanction must be excluded to count for the counties that are unable to participate in the performance sample county process.
- d. The portion of the federal error rate identified due to a difference in state and federal requirements, must be excluded from the original statewide error rate computation, and subsequent individual county error rates subject to sanction pass-on.

- e. Finally, Riverside County believes that inclusion of errors found on those cases where earned income is a factor in determining the eligibility for assistance for the assistance unit, is counter-productive to the federal and state goal of "getting people to work". States and counties must be rewarded for increasing the number of employed individuals on assistance, working towards smaller welfare roles and decreased overall expenditures for assistance payments. Application of sanctions on earned income cases will reduce the incentive for counties already struggling to process these complex cases correctly."

Response: Please refer to our response to comment #18.

21. Comment:

CCCSSD suggested that this section be amended. The county offered a suggested amendment along with justification for the change.

"Does the county's Program Payment Error Rate exceed the federal tolerance level for the federal fiscal year in which a federal sanction was imposed?"

The revised wording: provides consistency with definitions; deletes the term "point estimate" from the regulations. This term appears nowhere else in this section and is not defined. The correct term is Program Payment Error Rate."

Response: We agree with the county's suggestion to update the terminology by replacing "point estimate annual error rate" with Program Payment Error Rate.

Section 15-621.6

22. Comment:

COSSA requested the following:

"We request the addition of a provision in 15-621.6 which provides for appeals when a county suffers a fiscal disaster resulting in declaration of bankruptcy."

Response: Please refer to our response to comment #18. In addition, a county's ability to appeal a fiscal sanction is established in Section 15-621.7. That section does not limit the basis of appeal.

15-Day Renotice Comments and Responses

Los Angeles County submitted the following written comment during the 15-day renotice period. No other comments were received.

Section 15-621

LADPSS submitted this comment regarding Section 15.621:

"We continue to oppose the pass-on of any federal sanctions to counties since this violates the State and county partnership for the joint administration of the programs. The sanction pass-on assumes that counties bear sole responsibility for effectively administering the AFDC and Food Stamp Programs.

The federal government has implemented a sliding scale to compute sanctions based on the degree by which a state exceeded the error rate target. It seems only fair that the State adopt the same methodology for computing sanction pass-on."

Response

These comments are beyond the scope of the changes made to the regulations subsequent to the public hearing and made available during the 15-day renote period. In addition, as stated in our response to public hearing testimony, changes to Section 15-621 only reflect the updating of terminology. No substantive changes were made. The concern that LADPSS has expressed is an issue that must be addressed in a different venue.

e) Local Mandate Statement

These regulations impose a mandate on local agencies but not upon school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

f) Statement of Potential Cost Impact on Private Persons or Businesses and of Alternatives Considered

CDSS has determined that there will be no fiscal impact on private persons or businesses, including the ability of California businesses to compete with businesses in other states, because these regulations do not impact private persons or businesses.

CDSS has determined that no alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons than the proposed action.

g) 15-Day Renote Statement

Subsequent to the public hearing on May 17, 1995, the Department made several technical or substantive related changes to the proposed regulations. The complete text of the regulations as modified was made available for 15 days for public comment. The public comment period began on July 8, 1995 and ended on July 24, 1995. Los Angeles county submitted comments which dealt with issues beyond the scope of the changes renoted for public comment.